

1 carries on, works, or conducts any brewery, either by himself or by his agent;

2 (7) "Brewery" means any place or premises where malt beverages are manufactured for  
3 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,  
4 and storerooms connected with the premises; or where any part of the process of the  
5 manufacture of malt beverages is carried on; or where any apparatus connected with  
6 manufacture is kept or used; or where any of the products of brewing or  
7 fermentation are stored or kept;

8 (8) "Building containing licensed premises" means the licensed premises themselves  
9 and includes the land, tract of land, or parking lot in which the premises are  
10 contained, and any part of any building connected by direct access or by an entrance  
11 which is under the ownership or control of the licensee by lease holdings or  
12 ownership;

13 (9) "Caterer" means a corporation, partnership, or individual that operates the business  
14 of a food service professional by preparing food in a licensed and inspected  
15 commissary, transporting the food and alcoholic beverages to the caterer's  
16 designated and inspected banquet hall or to a location selected by the customer, and  
17 serving the food and alcoholic beverages to the customer's guests;

18 (10) "Charitable organization" means a nonprofit entity recognized as exempt from  
19 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.  
20 501(c)) or any organization having been established and continuously operating  
21 within the Commonwealth of Kentucky for charitable purposes for three (3) years  
22 and which expends at least sixty percent (60%) of its gross revenue exclusively for  
23 religious, educational, literary, civic, fraternal, or patriotic purposes;

24 (11) "Cider" means any fermented fruit-based beverage containing more than one-tenth  
25 of one percent (0.1%) alcohol by volume and includes hard cider and perry cider;

26 (12) "City administrator" means city alcoholic beverage control administrator;

27 (13) "Commissioner" means the commissioner of the Department of Alcoholic

1 **Beverage Control** ~~Kentucky Department of Revenue~~;

2 (14) "Convention center" means any facility which, in its usual and customary business,  
3 provides seating for a minimum of one thousand (1,000) people and offers  
4 convention facilities and related services for seminars, training and educational  
5 purposes, trade association meetings, conventions, or civic and community events  
6 or for plays, theatrical productions, or cultural exhibitions;

7 (15) "Convicted" and "conviction" means a finding of guilt resulting from a plea of  
8 guilty, the decision of a court, or the finding of a jury, irrespective of a  
9 pronouncement of judgment or the suspension of the judgment;

10 (16) "County administrator" means county alcoholic beverage control administrator;

11 (17) **"Department" means the Department of Alcoholic Beverage Control;**

12 **(18)** "Distilled spirits" or "spirits" means any product capable of being consumed by a  
13 human being which contains alcohol in excess of the amount permitted by KRS  
14 Chapter 242 obtained by distilling, mixed with water or other substances in  
15 solution, except wine, hard cider, and malt beverages;

16 **(19)**~~(18)~~ "Distiller" means any person who is engaged in the business of manufacturing  
17 distilled spirits at any distillery in the state and is registered in the Office of the  
18 Collector of Internal Revenue for the United States at Louisville, Kentucky;

19 **(20)**~~(19)~~ "Distillery" means any place or premises where distilled spirits are  
20 manufactured for sale, and which are registered in the office of any collector of  
21 internal revenue for the United States. It includes any United States government  
22 bonded warehouse;

23 **(21)**~~(20)~~ "Distributor" means any person who distributes malt beverages for the  
24 purpose of being sold at retail;

25 **(22)**~~(21)~~ "Dry territory" means a county, city, district, or precinct in which a majority of  
26 voters have voted in favor of prohibition;

27 **(23)**~~(22)~~ "Election" means:

1 (a) An election held for the purpose of taking the sense of the people as to the  
 2 application or discontinuance of alcoholic beverage sales under KRS Chapter  
 3 242; or

4 (b) Any other election not pertaining to alcohol;

5 ~~[(23) "Executive director" means the executive director of the Office of Alcoholic  
 6 Beverage Control;]~~

7 (24) "Field representative" means any employee or agent of the department~~[office]~~ who  
 8 is regularly employed and whose primary function is to travel from place to place  
 9 for the purpose of visiting taxpayers, and any employee or agent of the  
 10 department~~[office]~~ who is assigned, temporarily or permanently, by the  
 11 commissioner~~[executive director]~~ to duty outside the main office of the  
 12 department~~[office]~~ at Frankfort, in connection with the administration of alcoholic  
 13 beverage statutes;

14 (25) "License" means any license issued pursuant to KRS 243.020 to 243.670;

15 (26) "Licensee" means any person to whom a license has been issued, pursuant to KRS  
 16 243.020 to 243.670;

17 (27) "Limited restaurant" means:

18 (a) A facility where the usual and customary business is the serving of meals to  
 19 consumers, which has a bona fide kitchen facility, which receives at least  
 20 seventy percent (70%) of its gross income from the sale of food, which  
 21 maintains a minimum seating capacity of one hundred (100) persons for  
 22 dining, and which is located in a territory where prohibition is no longer in  
 23 effect under KRS 242.185(6); or

24 (b) A facility where the usual and customary business is the serving of meals to  
 25 consumers, which has a bona fide kitchen facility, which receives at least  
 26 seventy percent (70%) of its gross income from the sale of food, which  
 27 maintains a minimum seating capacity of fifty (50) persons for dining, which

1           has no open bar, which requires that alcoholic beverages be sold in  
 2           conjunction with the sale of a meal, and which is located in a territory where  
 3           prohibition is no longer in effect under KRS 242.1244;

4   (28) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or  
 5       description, manufactured from malt wholly or in part, or from any substitute for  
 6       malt, and having an alcoholic content greater than that permitted under subsection  
 7       (2)(i) of this section;

8   (29) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

9   (30) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person  
 10       engaged in the production or bottling of alcoholic beverages;

11   (31) "Minor" means any person who is not twenty-one (21) years of age or older;

12   (32) ~~["Office" means the Office of Alcoholic Beverage Control;~~

13   ~~(33)}~~ "Premises" means the land and building in and upon which any business regulated  
 14       by alcoholic beverage statutes is operated or carried on. "Premises" shall not include  
 15       as a single unit two (2) or more separate businesses of one (1) owner on the same  
 16       lot or tract of land, in the same or in different buildings if physical and permanent  
 17       separation of the premises is maintained, excluding employee access by keyed entry  
 18       and emergency exits equipped with crash bars, and each has a separate public  
 19       entrance accessible directly from the sidewalk or parking lot. Any licensee holding  
 20       an alcoholic beverage license on July 15, 1998 shall not, by reason of this  
 21       subsection, be ineligible to continue to hold his or her license or obtain a renewal,  
 22       of the license;

23   ~~(33)~~~~(34)}~~ "Prohibition" means the application of KRS 242.190 to 242.430 to a territory;

24   ~~(34)~~~~(35)}~~ "Qualified historic site" means a contributing property with dining facilities  
 25       for at least fifty (50) persons and lodging on the premises as authorized by KRS  
 26       219.021 within a commercial district listed in the National Register of Historic  
 27       Places, or a site that is listed as a National Historic Landmark with dining facilities



1 for at least fifty (50) persons and lodging on the premises as authorized by KRS  
 2 219.021. Notwithstanding the provisions of this subsection, a distillery which is  
 3 listed as a National Historic Landmark and which has a souvenir retail liquor  
 4 license under KRS 243.0305, shall be deemed a "qualified historic site" under this  
 5 section;

6 ~~(35)~~~~(36)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits  
 7 or wine by any process other than as provided for on distillery premises, and every  
 8 person who, without rectifying, purifying, or refining distilled spirits by mixing  
 9 alcoholic beverages with any materials, manufactures any imitations of or  
 10 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,  
 11 spirits, cordials, bitters, or any other name;

12 ~~(36)~~~~(37)~~ "Repackaging" means the placing of alcoholic beverages in any retail  
 13 container irrespective of the material from which the container is made;

14 ~~(37)~~~~(38)~~ "Restaurant" means a facility where the usual and customary business is the  
 15 serving of meals to consumers, that has a bona fide kitchen facility, and that  
 16 receives at least fifty percent (50%) of its gross receipts from the sale of food;

17 ~~(38)~~~~(39)~~ "Retail container" means any bottle, can, barrel, or other container which,  
 18 without a separable intermediate container, holds alcoholic beverages and is  
 19 suitable and destined for sale to a retail outlet, whether it is suitable for delivery to  
 20 the consumer or not;

21 ~~(39)~~~~(40)~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car,  
 22 club, and any facility where alcoholic beverages are sold directly to the consumers;

23 ~~(40)~~~~(41)~~ "Retail sale" means any sale where delivery is made in Kentucky to any  
 24 consumers;

25 ~~(41)~~~~(42)~~ "Retailer" means any person who sells at retail any alcoholic beverage for the  
 26 sale of which a license is required;

27 ~~(42)~~~~(43)~~ "Sale" means any transfer, exchange, or barter for consideration, and includes

1 all sales made by any person, whether principal, proprietor, agent, servant, or  
2 employee, of any alcoholic beverage;

3 ~~(43)~~~~((44))~~ "Service bar" means a bar, counter, shelving, or similar structure used for  
4 storing or stocking supplies of alcoholic beverages that is a workstation where  
5 employees prepare alcoholic beverage drinks to be delivered to customers away  
6 from the service bar. A service bar shall be located in an area where the general  
7 public, guests, or patrons are prohibited;

8 ~~(44)~~~~((45))~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep  
9 with intent to sell, and the delivery of any alcoholic beverage;

10 ~~(45)~~~~((46))~~ "Small farm winery" means a winery producing wines, in an amount not to  
11 exceed fifty thousand (50,000) gallons in a calendar year;

12 ~~(46)~~~~((47))~~ "Souvenir package" means a special package of Kentucky straight bourbon  
13 whiskey available for retail sale at a licensed Kentucky distillery where the whiskey  
14 was produced or bottled that is available from a licensed retailer;

15 ~~(47)~~~~((48))~~ "State director" means the director of the Division of Distilled Spirits or the  
16 director of the Division of Malt Beverages, or both, as the context requires;

17 ~~(48)~~~~((49))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used  
18 for serving and selling distilled spirits or wine by the drink for consumption on the  
19 licensed premises to guests and patrons from additional locations other than the  
20 main bar. A supplemental bar shall be continuously constructed and accessible to  
21 patrons for distilled spirits or wine sales or service without physical separation by  
22 walls, doors, or similar structures;

23 ~~(49)~~~~((50))~~ "Vehicle" means any device or animal used to carry, convey, transport, or  
24 otherwise move alcoholic beverages or any products, equipment, or appurtenances  
25 used to manufacture, bottle, or sell these beverages;

26 ~~(50)~~~~((51))~~ "Vintner" means any person who owns, occupies, carries on, works, conducts,  
27 or operates any winery, either by himself or by his agent, except persons who

1 manufacture wine for sacramental purposes exclusively;

2 ~~(51)~~~~(52)~~ "Warehouse" means any place in which alcoholic beverages are housed or  
3 stored;

4 ~~(52)~~~~(53)~~ "Wholesale sale" means a sale to any person for the purpose of resale;

5 ~~(53)~~~~(54)~~ "Wholesaler" means any person who distributes alcoholic beverages for the  
6 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer  
7 or cooperative of a retail outlet;

8 ~~(54)~~~~(55)~~ "Wine" means the product of the normal alcoholic fermentation of the juices  
9 of fruits, with the usual processes of manufacture and normal additions, and  
10 includes champagne and sparkling and fortified wine of an alcoholic content not to  
11 exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and  
12 perry cider and also includes preparations or mixtures vended in retail containers if  
13 these preparations or mixtures contain not more than fifteen percent (15%) of  
14 alcohol by volume. It includes ciders, perry, or sake having an alcohol content  
15 greater than that permitted under subsection (2)(i) of this section; and

16 ~~(55)~~~~(56)~~ "Winery" means any place or premises in which wine is manufactured from  
17 any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials  
18 are compounded.

19 ➔Section 550. KRS 241.015 is amended to read as follows:

20 There is created a Department~~an Office~~ of Alcoholic Beverage Control, which shall  
21 constitute a statutory administrative department~~office~~ of the state government within  
22 the meaning of KRS Chapter 12. The department~~office~~ consists of the  
23 commissioner~~executive director~~ of alcoholic beverage control and the Alcoholic  
24 Beverage Control Board. The commissioner~~executive director~~ shall head the  
25 department~~office~~, shall be its executive officer, and shall have charge of the  
26 administration of the department~~office~~ and perform all functions of the  
27 department~~office~~ not specifically assigned to the board. The ~~secretary of the~~

1 ~~Environmental and Public Protection Cabinet, with the approval of the~~ Governor[,] shall  
 2 appoint as commissioner~~[executive director]~~ a person with administrative experience in  
 3 the field of alcoholic beverage control. The commissioner~~[executive director]~~ shall be  
 4 appointed for a term of four (4) years.

5 ➔Section 551. KRS 241.020 is amended to read as follows:

6 (1) The department~~[office]~~ shall administer statutes relating to, and regulate traffic in,  
 7 alcoholic beverages, except that the collection of taxes shall be administered by the  
 8 Department of Revenue.

9 (2) A Division of Distilled Spirits, under the supervision of the board, shall administer  
 10 the laws in relation to traffic in distilled spirits and wine.

11 (3) A Division of Malt Beverages, under the supervision of the board, shall administer  
 12 the laws in relation to traffic in malt beverages.

13 ➔Section 552. KRS 241.030 is amended to read as follows:

14 The Alcoholic Beverage Control Board shall consist of the commissioner~~[executive~~  
 15 ~~director]~~ of alcoholic beverage control and two (2) persons appointed by the secretary of  
 16 the ~~[Environmental and]~~ Public Protection Cabinet with the approval of the Governor,  
 17 who shall be persons with administrative experience in the field of alcoholic beverage  
 18 control and who shall serve for terms of four (4) years each. One (1) of such persons shall  
 19 serve as director of the Division of Distilled Spirits, and the other shall serve as director  
 20 of the Division of Malt Beverages. The commissioner~~[executive director]~~ shall be  
 21 chairman of the board.

22 ➔Section 553. KRS 241.060 is amended to read as follows:

23 The board shall have the following functions, powers, and duties:

24 (1) To promulgate reasonable administrative regulations governing procedures relative  
 25 to the applications for and revocations of licenses, the supervision and control of the  
 26 use, manufacture, sale, transportation, storage, advertising, and trafficking of  
 27 alcoholic beverages, and all other matters over which the board has jurisdiction.

1 Administrative regulations need not be uniform in their application but may vary in  
2 accordance with reasonable classifications;

3 (2) To limit in its sound discretion the number of licenses of each kind or class to be  
4 issued in this state or any political subdivision, and restrict the locations of licensed  
5 premises. To this end, the board may make reasonable division and subdivision of  
6 the state or any political subdivision into districts. Administrative regulations  
7 relating to the granting, refusal, and revocation of licenses may be different within  
8 the several divisions or subdivisions;

9 (3) To hold hearings in accordance with the provisions of KRS Chapter 13B. The  
10 department~~[office]~~ may pay witnesses the per diem and mileage provided in KRS  
11 421.015;

12 (4) To conduct hearings and appeals under KRS 241.150, 241.200, 243.470, and  
13 243.520 and render final orders upon the subjects of the hearings and appeals;

14 (5) To destroy evidence in the department's~~[office's]~~ possession after all administrative  
15 and judicial proceedings are conducted;

16 (6) To suspend, revoke, or cancel for cause, after a hearing in accordance with KRS  
17 Chapter 13B, any license issued under KRS 243.020 to 243.670;

18 (7) To prohibit the issuance of a license for the premises until the expiration of two (2)  
19 years from the time the offense was committed if a violation of KRS Chapter 241,  
20 KRS 243.020 to 243.670, or KRS Chapter 244 has taken place on the premises  
21 which the owner knew of or should have known of, or was committed or permitted  
22 in or on the premises owned by the licensee; and

23 (8) To suspend a license for any cause for which the board is authorized to exercise its  
24 discretion as to revoking a license.

25 ➔Section 554. KRS 241.100 is amended to read as follows:

26 (1) No member of the board or member of his or her immediate family or employee of  
27 the department~~[office]~~ shall have any interest in any premises or business where

1 alcoholic beverages are manufactured, stored or sold. Nor shall he or she receive  
 2 any commission or profit from any person applying for or receiving any license or  
 3 permit.

4 (2) No person shall be disqualified under this section solely by reason of his or her  
 5 membership in a club.

6 (3) If a member of the board is disqualified or fails to give bond and take the oath of  
 7 office, the Governor shall fill the vacancy by appointment for the period during  
 8 which that member of the board remains disqualified or fails to qualify.

9 ➔Section 555. KRS 241.140 is amended to read as follows:

10 The functions of each county administrator shall be the same, with respect to local  
 11 licenses and regulations, as the functions of the board with respect to state licenses and  
 12 regulations, except that no regulation adopted by a county administrator may be less  
 13 stringent than statutes relative to alcoholic beverage control or than the regulations of the  
 14 board. If any city appoints its own administrator under KRS 241.170, the county  
 15 administrator in that county shall have jurisdiction over only that portion of the county  
 16 which lies outside the corporate limits of that city, unless the department~~office~~  
 17 determines that the city does not have an adequate police force of its own or under KRS  
 18 70.540, 70.150, 70.160, and 70.170.

19 ➔Section 556. KRS 241.170 is amended to read as follows:

20 (1) The city administrator in each city of the first class or the administrator in a  
 21 consolidated local government, and such investigators and clerks as are deemed  
 22 necessary for the proper conduct of his office, shall be appointed by the mayor. The  
 23 city administrator in each city of the first class or the administrator in a county  
 24 containing a consolidated local government, and his investigators, shall have full  
 25 police powers of peace officers, and their jurisdiction shall be coextensive with  
 26 boundaries of the city of the first class or the boundaries of the county in a county  
 27 containing a consolidated local government. They may inspect any premises where

1 alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in,  
 2 without first obtaining a search warrant. If any city of the second, third, or fourth  
 3 class in a county containing a consolidated local government appoints its own  
 4 administrator under KRS 241.160, the administrator of a consolidated local  
 5 government in that county shall have jurisdiction over only that portion of the  
 6 county which lies outside the corporate limits of such a city, unless the  
 7 ~~department~~~~office~~ determines that the city does not have an adequate police force  
 8 of its own or pursuant to KRS 70.150, 70.160, 70.170, and 70.540.

9 (2) The city administrator in each city of the second, third, or fourth class shall be  
 10 appointed by the city manager if there is one. If there is no city manager, the city  
 11 administrator shall be appointed by the mayor.

12 (3) No person shall be an administrator, an investigator, or an employee of the city or a  
 13 consolidated local government under the supervision of the administrator, who  
 14 would be disqualified to be a member of the board under KRS 241.100.

15 ➔Section 557. KRS 241.990 is amended to read as follows:

16 Any person who after an opportunity to be heard is found by the ~~commissioner~~~~executive~~  
 17 ~~director~~ to have violated any of the provisions of KRS 241.100, or acted as county  
 18 administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator  
 19 or a city employee in violation of subsection (3) of KRS 241.170, or acted as an urban-  
 20 county administrator in violation of KRS 241.230, shall automatically vacate his office or  
 21 position, and upon conviction by a court, he shall be guilty of a Class D felony.

22 ➔Section 558. KRS 242.123 is amended to read as follows:

23 (1) To promote economic development and tourism in a county containing a city that  
 24 has, in whole or in part, voted to discontinue prohibition, with the exception of a  
 25 territory that has discontinued prohibition in accordance with KRS 242.1292, a  
 26 local option election for the limited sale of alcoholic beverages may be held in any  
 27 precinct containing a nine (9) or an eighteen (18) hole golf course that meets United

1 States Golf Association criteria as a regulation golf course, notwithstanding any  
2 other provisions of the Kentucky Revised Statutes.

3 (2) A local option election for the limited sale of alcoholic beverages held under  
4 subsection (1) of this section shall be conducted in the same manner specified in  
5 KRS 242.020 to 242.120, except that the form of the proposition to be voted upon  
6 shall be "Are you in favor of the sale of alcoholic beverages by the drink at (name of  
7 golf course) in the (name of precinct)?".

8 (3) Upon approval of the proposition, the Department~~[Office]~~ of Alcoholic Beverage  
9 Control may issue a license to the golf course for the sale of alcoholic beverages by  
10 the drink as provided in KRS 243.030 and KRS 243.040.

11 (4) No alcoholic beverage license shall be issued to any applicant within the precinct  
12 except the nine (9) or the eighteen (18) hole regulation golf course named in the  
13 proposition.

14 ➔Section 559. KRS 242.1232 is amended to read as follows:

15 (1) The Department~~[Office]~~ of Alcoholic Beverage Control shall not issue a license to  
16 an applicant authorized to apply for a license to sell alcoholic beverages by the  
17 drink under KRS 242.123 unless the applicant and the golf course, if different from  
18 the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344,  
19 whether or not the applicant and the golf course would otherwise be covered by the  
20 provisions of KRS Chapter 344.

21 (2) The department~~[office]~~ shall revoke or suspend any license issued under KRS  
22 242.123 if the department~~[office]~~ or the Kentucky Commission on Human Rights  
23 makes a finding that the applicant or the golf course, if different from the applicant,  
24 has violated a requirement specified in this section.

25 ➔Section 560. KRS 242.1242 is amended to read as follows:

26 (1) To promote economic development and tourism in any county or city in which  
27 prohibition is in effect, in whole or in part, and a qualified historic site is located, a



1 local option election for the limited sales of alcoholic beverages by the drink may be  
 2 held in the precinct of the county where the qualified historic site is located,  
 3 notwithstanding any other provision of the Kentucky Revised Statutes.

4 (2) A local option election for the limited sale of alcoholic beverages by the drink held  
 5 under subsection (1) of this section shall be conducted in the same manner as  
 6 specified in KRS 242.020; 242.030(1), (2), and (5); 242.040; and 242.060 to  
 7 242.120. The form of the proposition to be voted upon shall be "Are you in favor of  
 8 the sale of alcoholic beverages by the drink at qualified historic sites in the (name of  
 9 precinct)?"

10 (3) Upon approval of the proposition, the Department~~[Office]~~ of Alcoholic Beverage  
 11 Control shall issue a license to qualified historic sites that meet the criteria included  
 12 in the proposition for the sale of alcoholic beverages by the drink as provided in  
 13 KRS 243.030.

14 ➔Section 561. KRS 243.025 is amended to read as follows:

15 (1) All of the fees paid into the State Treasury for licenses issued under KRS 243.030  
 16 and 243.040 shall be credited to a revolving trust and agency account, as provided  
 17 in KRS 45.253, for the Department~~[Office]~~ of Alcoholic Beverage Control.

18 (2) All fees associated with the department's~~[agency's]~~ server training program, except  
 19 for board-ordered fees, shall be collected on a cost recovery basis and shall be  
 20 credited to the revolving trust and agency account established under subsection (1)  
 21 of this section.

22 (3) These moneys shall be used solely for the administration and enforcement of KRS  
 23 Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the  
 24 close of the fiscal year.

25 ➔Section 562. KRS 243.030 is amended to read as follows:

26 The following kinds of distilled spirits and wine licenses may be issued by the director of  
 27 the Division of Distilled Spirits, the fees for which shall be:

- 1 (1) Distiller's license, per annum ..... \$2,500.00
- 2 (2) Rectifier's license, per annum ..... \$2,500.00
- 3 (3) Blender's license, per annum ..... \$2,500.00
- 4 (4) Vintner's license, per annum ..... \$1,000.00
- 5 (5) Small farm winery license, per annum ..... \$100.00
- 6 (a) Small farm winery off-premises retail license, per annum ..... \$25.00
- 7 (6) Wholesaler's license, per annum ..... \$2,000.00
- 8 (7) Retail package license, per annum:
  - 9 (a) In counties containing cities of the first class or a consolidated local
  - 10 government ..... \$800.00
  - 11 (b) In counties containing cities of the second class ..... \$700.00
  - 12 (c) In counties containing cities of the third class ..... \$600.00
  - 13 (d) In counties containing cities of the fourth class ..... \$500.00
  - 14 (e) In all other counties ..... \$400.00
- 15 (8) Retail drink license, motel drink license, restaurant drink license, or supplemental
- 16 bar license, per annum:
  - 17 (a) In counties containing cities of the first class or a consolidated local
  - 18 government ..... \$1,000.00
  - 19 (b) In counties containing cities of the second class ..... \$700.00
  - 20 (c) In counties containing cities of the third class ..... \$600.00
  - 21 (d) In counties containing cities of the fourth class ..... \$500.00
  - 22 (e) The fee for each of the first five (5) supplemental bar licenses shall be the
  - 23 same as the fee for the drink license. There shall be no charge for each
  - 24 supplemental license issued in excess of five (5) to the same licensee at the
  - 25 same premises.
- 26 (9) Transporter's license, per annum ..... \$100.00
- 27 (10) Dining car license, per annum ..... \$100.00

- 1 (11) Special nonbeverage alcohol vendor's license, per annum ..... \$50.00
- 2 (12) Special industrial alcohol license, per annum ..... \$50.00
- 3 (13) Special nonindustrial alcohol license, per annum ..... \$50.00
- 4 (14) Special agent's or solicitor's license, per annum ..... \$25.00
- 5 (15) Special storage or warehouse license and bottling house storage license,
- 6 per annum ..... \$500.00
- 7 (16) Special temporary liquor license, per event ..... \$100.00
- 8 (17) Special private club license, per annum ..... \$300.00
- 9 The fee for each special private club license shall be the fee set out in this subsection;
- 10 however, there shall be no charge for each special private club license issued in excess of
- 11 six (6) that is issued to the same licensee at the same premises.
- 12 (18) Special Sunday retail drink license, per annum ..... \$500.00
- 13 (19) Nonresident special agent or solicitor's license, per annum ..... \$100.00
- 14 (20) Transport permit, nonresident license, per annum ..... \$100.00
- 15 (21) Through transporter's license, per annum ..... \$100.00
- 16 (22) Freight forwarder's license, per annum ..... \$100.00
- 17 (23) Restaurant wine license, per annum..... \$500.00
- 18 (24) Special temporary wine license, per event ..... \$50.00
- 19 (25) Caterer's license, per annum ..... \$800.00
- 20 (26) Souvenir retail liquor license, per annum ..... \$500.00
- 21 (27) Special temporary distilled spirits and wine
- 22 auction license, per event ..... \$100.00
- 23 (28) Airport drink license, per annum ..... \$1,000.00
- 24 (29) Convention center or convention hotel complex
- 25 license, per annum ..... \$5,000.00
- 26 (30) Extended hours supplemental license, per annum ..... \$2,000.00
- 27 (31) Horse race track license, per annum ..... \$2,000.00

- 1 (32) Automobile race track license, per annum ..... \$2,000.00
- 2 (33) Air or rail system license, per annum ..... \$2,000.00
- 3 (34) Riverboat license, per annum ..... \$1,000.00
- 4 (35) Bottling house license, per annum ..... \$1,000.00
- 5 (36) Hotel in-room license, per annum ..... \$200.00
- 6 (37) Bonded warehouse license, per annum ..... \$1,000.00
- 7 (38) Air transporter liquor license, per annum ..... \$500.00
- 8 (39) Sampling license, per annum ..... \$100.00
- 9 (40) Replacement or duplicate license ..... \$25.00
- 10 (41) Entertainment destination license, per annum ..... \$7,500.00
- 11 (42) (a) Limited restaurant license or limited golf course license, per annum
- 12 (includes distilled spirits, wine, and malt beverages), new applicants:
- 13 1. In counties containing cities of the first class or a consolidated local
- 14 government ..... \$1,200.00
- 15 2. In counties containing cities of the second class ..... \$900.00
- 16 3. In counties containing cities of the third class ..... \$800.00
- 17 4. In counties containing cities of the fourth, fifth,
- 18 or sixth classes ..... \$700.00
- 19 (b) Renewals for limited restaurant licenses or limited golf course licenses shall
- 20 be \$50.00 less than the applicable licensing fee for new applicants.
- 21 (43) Small farm winery wholesaler's license, per annum ..... \$100.00
- 22 (44) Qualified historic site license (includes distilled spirits, wine, and malt beverages by
- 23 the drink), per annum ..... \$1,000.00
- 24 (45) A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new
- 25 transitional license pursuant to KRS 243.045.
- 26 (46) Other special licenses the board finds necessary for the proper regulation and
- 27 control of the traffic in distilled spirits and wine and provides for by administrative

1 regulation. In fixing the amount of license taxes that are required to be fixed by the  
2 board, it shall have regard for the value of the privilege granted.

3 A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each  
4 new application under this section, except for subsections (5), (9), (11), (12), (13), (14),  
5 (16), (19), (20), (21), (22), (24), (27), (39), and (40). The application fee shall be applied  
6 to the licensing fee if the license is issued; otherwise it shall be retained by the  
7 department~~{office}~~.

8 ➔Section 563. KRS 243.036 is amended to read as follows:

9 (1) A special temporary distilled spirits and wine auction license may be issued to a  
10 charitable organization, upon the payment of the fee set forth in KRS 243.030 and  
11 upon satisfaction of the requirements prescribed by administrative regulation  
12 promulgated by the department~~{office}~~.

13 (2) A special temporary distilled spirits and wine auction license shall authorize the  
14 charitable organization to:

15 (a) Purchase, transport, receive, possess, store, sell, and deliver distilled spirits  
16 and wine to be sold at auction in the manner prescribed by administrative  
17 regulation promulgated by the department~~{office}~~;

18 (b) Obtain distilled spirits and wine from distillers, rectifiers, vintners,  
19 wholesalers, distributors, retailers, or any other person, by gift or donation, for  
20 the purpose of charity auctions in the manner prescribed by administrative  
21 regulation promulgated by the department~~{office}~~; and

22 (c) Receive payment for distilled spirits and wine sold at auctions in the manner  
23 prescribed by administrative regulation promulgated by the  
24 department~~{office}~~.

25 (3) Each distilled spirits and wine auction conducted by a charitable organization shall  
26 be subject to all restrictions and limitations contained in KRS Chapters 241 to 244  
27 and the administrative regulations issued under those chapters and shall be

1 authorized only on the days and only during the hours that the sale of alcoholic  
2 beverages is otherwise authorized in the county or municipality.

3 (4) The location at which the distilled spirits and wine are auctioned under this section  
4 shall not constitute a public place for the purpose of KRS Chapter 222. Distilled  
5 spirits and wine auctions may be conducted on licensed or unlicensed premises. The  
6 charitable organization possessing a special temporary distilled spirits and wine  
7 auction license shall post a copy of the license at the location of the auction. During  
8 this period not more than one (1) auction shall be held.

9 (5) A special temporary distilled spirits and wine auction license shall not be issued for  
10 any period longer than thirty (30) days. During this period not more than one (1)  
11 auction shall be held.

12 (6) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller,  
13 rectifier, vintner, wholesaler, distributor, or retailer may donate, give away, or  
14 deliver any of its products to a charitable organization possessing a special  
15 temporary distilled spirits and wine auction license under this section.

16 (7) All restrictions and prohibitions applying to a distilled spirits and wine retail  
17 package and distilled spirits and wine by the drink license, not inconsistent with this  
18 section, shall apply to a special temporary distilled spirits and wine auction license.

19 ➔Section 564. KRS 243.040 is amended to read as follows:

20 The following kinds of malt beverage licenses may be issued by the director of the  
21 Division of Malt Beverages, the fees for which shall be:

- |    |  |            |
|----|--|------------|
| 22 | (1) Brewer's license, per annum .....        | \$2,500.00 |
| 23 | (2) Microbrewery license, per annum .....    | \$500.00   |
| 24 | (3) Distributor's license, per annum .....   | \$500.00   |
| 25 | (4) Malt beverage retail license, per annum: |            |
| 26 | (a) New applicants .....                     | \$200.00   |
| 27 | (b) Renewals .....                           | \$150.00   |

- 1 (5) Dining car license, per annum ..... \$200.00
- 2 (6) Transporter's license, per annum ..... \$100.00
- 3 (7) Special temporary license, per event ..... \$50.00
- 4 (8) Special off-premises retail storage license, per annum ..... \$100.00
- 5 (9) Distributor's storage, per annum ..... \$250.00
- 6 (10) Special beer transporter's license, per annum ..... \$100.00
- 7 (11) Brew-on-premises license, per annum ..... \$500.00
- 8 (12) Out-of-state brewer license, per annum ..... \$1,500.00
- 9 (13) Malt beverage warehouse license, per annum ..... \$1,000.00
- 10 (14) Replacement or duplicate license, per annum ..... \$25.00
- 11 (15) Limited out-of-state brewer license, per annum ..... \$250.00
- 12 (16) Qualified historic site, per annum ..... \$200.00
- 13 (17) A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new
- 14 transitional license pursuant to KRS 243.045.
- 15 (18) Other special licenses as the state board finds to be necessary for the administration
- 16 of KRS Chapters 241, 242, 243, and 244 and for the proper regulation and control
- 17 of the trafficking in malt beverages, as provided for by administrative regulations
- 18 promulgated by the state board.

19 Applicants for special licenses provided for under the authority granted in subsection (15)  
 20 may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set  
 21 out in administrative regulations promulgated by the board. A nonrefundable application  
 22 fee of fifty dollars (\$50) shall be charged to process each new application for a license  
 23 under this section except for subsections (6), (7), (10), and (14). The application fee shall  
 24 be applied to the licensing fee if the license is issued, or otherwise the fee shall be  
 25 retained by the department~~office~~.

26 ➔Section 565. KRS 243.045 is amended to read as follows:

- 27 (1) A transitional license may be issued by the director of the Division of Malt

1 Beverages or the director of the Division of Distilled Spirits during the time a  
2 transfer of an ongoing business is being processed under the following conditions:

3 (a) The purchaser shall file an application for a permanent license with the  
4 appropriate local alcoholic beverage authority and with the  
5 department~~office~~;

6 (b) The purchaser shall advertise its intention to apply for a license pursuant to  
7 KRS 243.360; and

8 (c) The purchaser shall pay all application fees for the permanent license.

9 (2) If the above requirements are met, the director of the Division of Malt Beverages or  
10 the director of the Division of Distilled Spirits, as appropriate, shall have the  
11 discretion to issue a transitional license with a term of up to sixty (60) days, plus  
12 one (1) thirty (30) day extension period, to the purchaser for a processing fee set  
13 forth in KRS 243.030 to 243.040. All transitional licenses immediately expire upon  
14 the issuance to the purchaser of one (1) or more permanent licenses.

15 (3) Upon completion of the sale of the business, the purchaser shall not operate the  
16 business on the seller's license.

17 (4) The transitional license shall not be transferable or used for an application to move  
18 a business from one (1) location to another location.

19 ➔Section 566. KRS 243.050 is amended to read as follows:

20 (1) The department~~office~~ may issue a railroad system license to a railroad company  
21 upon the payment of the required fee. This license tax shall be in lieu of all license  
22 and excise taxes which would otherwise be due by the holder in connection with the  
23 retailing of alcoholic beverages.

24 (2) The department~~office~~ may issue a commercial airlines system license to a  
25 commercial airlines system or charter flight system upon the payment of the  
26 required fee. This license fee shall be in lieu of all license and excise taxes which  
27 would otherwise be due by the holder in connection with the retailing of alcoholic



1 beverages and the license may be renewed annually. The license shall authorize the  
2 licensee to sell distilled spirits and wine by the drink and by miniature bottle, and  
3 malt beverages, upon regularly scheduled or charter flights of the licensee, in and  
4 out of the State of Kentucky. The license shall authorize the licensee to store  
5 alcoholic beverages for retail sale at a location or locations, if operating from more  
6 than one (1) airport in Kentucky, as designated on the license application.

7 (3) The department~~{office}~~ may issue a transporter's license to a commercial airline  
8 system, a charter flight system, or a commercial cargo system, upon the payment of  
9 the required fee. This license may be renewed annually. The license shall authorize  
10 the licensee to transport distilled spirits and wine and malt beverages, into and out  
11 of the State of Kentucky, upon regularly scheduled or charter flights of the licensee.  
12 The license shall authorize, for the purpose of transportation, the storage of  
13 alcoholic beverages at a location or locations, if operating from more than one (1)  
14 airport in Kentucky, as designated on the license application. This license shall  
15 authorize an airline to transport if both the consignor and consignee in each case are  
16 authorized by the laws of the states of their residence to sell, purchase, ship, or  
17 receive the alcoholic beverages.

18 (4) The department~~{office}~~ may issue a convention center or convention hotel complex  
19 license for the retail sale of distilled spirits, wine, and malt beverages for  
20 consumption on the premises to a convention center or hotel having seating capacity  
21 of one thousand (1,000) or more persons. The license shall cover all alcoholic  
22 beverage sales on the premises, except that a separate hotel in-room service license  
23 shall be required, where applicable. An extended supplement license under  
24 subsection (5) of this section may also be issued where applicable. The convention  
25 center or convention hotel complex license shall be a nonquota license and shall not  
26 be transferable to other premises. The provisions of this subsection shall not apply  
27 to convention center licenses or the renewal thereof, other than those in a city of the

1 first class or a county containing a city of the first class or a consolidated local  
2 government, if the original license was issued prior to July 15, 1998.

- 3 (5) Where it is determined by the department~~{office}~~ to be in the best interest of  
4 promoting tourism, conventions, and the economic development of Kentucky or any  
5 part thereof, the department~~{office}~~ may issue a supplemental license for the retail  
6 sale of alcoholic beverages by the drink at convention centers, at horse race tracks  
7 licensed to conduct a race meeting under KRS Chapter 230, at commercial airports  
8 through which more than five hundred thousand (500,000) passengers arrive or  
9 depart annually, at automobile race tracks having a seating capacity of at least thirty  
10 thousand (30,000) people, and at qualified historic sites. Upon application by the  
11 holder of a retail alcoholic beverage license at a convention center, convention hotel  
12 complex, horse race track, automobile race track, commercial airport, or qualified  
13 historic site meeting the requirements of this subsection as provided above, the  
14 department~~{office}~~ may establish the days when the supplemental license will be  
15 valid at the specific location, including Sundays after 1 p.m. The supplemental  
16 license fee shall be established, and shall be in addition to all other licenses and fees  
17 due by the holder in connection with the retailing of alcoholic beverages. The  
18 department~~{office}~~ may, by administrative regulation or special conditions of the  
19 supplemental permit, establish such restrictions on the use of the license as will  
20 insure that it will be primarily for the benefit of the convention business, the horse  
21 racing industry, passengers at large commercial airports, the automobile racing  
22 industry, and qualified historic sites.

23 ➔Section 567. KRS 243.055 is amended to read as follows:

- 24 (1) As used in this section, the following definitions shall apply:

- 25 (a) "Hotel" means any hotel, motel, inn, or other establishment which offers  
26 overnight accommodations to the public for hire;  
27 (b) "In-room service" means the delivery of alcoholic beverages in unbroken

1 packages by an employee of the hotel to a registered guest's room when the  
 2 alcoholic beverages have been ordered by a guest and when the guest shall be  
 3 billed for the cost of the alcoholic beverages at the time of delivery, with all  
 4 sales of the alcoholic beverages being completed upon delivery; and,  
 5 additionally, the provision of a cabinet or other facility located in a hotel  
 6 guest's room which contains alcoholic beverages and which is provided upon  
 7 written request of the guest and which is accessible by lock and key or remote  
 8 control device only to the guest, with the sale of the alcoholic beverages  
 9 contained therein being final at the time requested, except for a credit which  
 10 may be given to the guest for any unused portion. The licensee may stock a  
 11 cabinet or other facility located in a hotel guest's room pursuant to this section,  
 12 with fifty (50) milliliter containers of distilled spirits.

13 (2) The department~~[office]~~ may issue a hotel in-room service license to any hotel  
 14 which is licensed to sell distilled spirits, wine, and malt beverages upon the  
 15 payment of the fee set forth in KRS 243.030. The license shall authorize the  
 16 licensee to sell distilled spirits, wine, and malt beverages by in-room service. The  
 17 sale of alcoholic beverages by in-room service shall be subject to all restrictions and  
 18 limitations contained in KRS Chapters 241 to 244, and the administrative  
 19 regulations issued under those chapters, and shall be authorized only on the days  
 20 and only during the hours as the sale of alcoholic beverages is otherwise authorized  
 21 in the county or municipality. All alcoholic beverages sold pursuant to this section  
 22 shall be considered by the drink sales and shall be subject to all state and local taxes  
 23 imposed on alcoholic beverages and shall be purchased from a licensed wholesaler  
 24 and distributor.

25 ➔Section 568. KRS 243.090 is amended to read as follows:

26 (1) All licenses issued by the department~~[office]~~, except special event or temporary  
 27 licenses, shall be valid for a period of no more than a year. All licenses shall expire

on June 30 of each year until the licensee is notified by the department~~{office}~~ that a renewal system with staggered dates has been implemented. The department~~{office}~~ shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department~~{Office}~~ of Alcoholic Beverage Control.

(2) When any person applies for a new license authorized to be issued under KRS 243.020 to 243.670, he shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.

(3) The renewal by the department~~{office}~~ of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.

➔Section 569. KRS 243.155 is amended to read as follows:

(1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The department~~{office}~~ shall promulgate administrative regulations

1 establishing the form the documentation of proof of production shall take.

2 (2) A small farm winery license shall authorize the licensee to perform the following  
3 functions without having to obtain separate licenses, except that each small farm  
4 winery off-premises retail site shall be separately licensed:

5 (a) Manufacture wines and bottle wines produced by that small farm winery;

6 (b) Bottle wines produced by another small farm winery;

7 (c) Serve on the premises or at small farm winery off-premise retail sites  
8 complimentary samples of wine produced by it in amounts not to exceed six  
9 (6) ounces per patron per day, if the small farm winery or its off-premise retail  
10 site is located in wet territory;

11 (d) Sell by the drink or by the package on premises, at small farm winery off-  
12 premise retail sites, and at fairs, festivals, and other similar types of events,  
13 wine produced on the premises of the small farm winery or produced by a  
14 licensed small farm winery, at retail to consumers if all sales sites are located  
15 in wet territory;

16 (e) Sell and transport wine produced on the premises of the small farm winery to  
17 wholesale license holders and small farm winery license holders;

18 (f) Consume on the premises wine produced by the small farm winery or a  
19 licensed small farm winery and purchased by the drink or by the package at  
20 the licensed premises, if the small farm winery is located in wet territory; and

21 (g) Ship to a customer wine produced by a small farm winery if:

22 1. The wine is purchased by the customer in person at the small farm  
23 winery;

24 2. The wine is shipped by licensed common carrier; and

25 3. The amount of wine shipped is limited to two (2) cases per customer per  
26 visit.

27 (3) If a licensed small farm winery is located in a dry territory, KRS 242.230 to 242.430

1 shall apply, unless a local option election is held in accordance with the provisions  
2 of this subsection. A limited sale precinct election may be held in a precinct  
3 containing a licensed small farm winery or a proposed small farm winery located in  
4 a dry territory. The election shall be held in the same manner as prescribed by KRS  
5 242.010 to 242.040 and 242.060 to 242.120. If the precinct contains a licensed  
6 small farm winery, the proposition to be voted on shall state, "Are you in favor of  
7 the sale of wine at the (name of the licensed small farm winery or wineries)?" If the  
8 precinct contains a proposed small farm winery or wineries, the proposition voted  
9 on shall state, "Are you in favor of the sale of wine at the (name of the proposed  
10 small farm winery or wineries)?" If the proposition is approved, a licensed small  
11 farm winery within the precinct may sell wine in accordance with subsection (2) of  
12 this section.

13 (4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small  
14 farm winery license holder may also hold a restaurant wine license and a retail malt  
15 beverage license, provided the issuance of these licenses is in connection with the  
16 establishment and operation of a restaurant, hotel, inn, bed and breakfast,  
17 conference center, or any similar business enterprise the purpose of which is to  
18 promote viticulture, enology, and tourism. The retail malt beverage license issued  
19 under this subsection shall limit the licensee to the sale of malt beverages for  
20 consumption on the premises only.

21 (5) This section shall not exempt the holder of a small farm winery license from the  
22 provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative  
23 regulations of the board, nor from regulation by the board at all premises licensed  
24 by the small farm winery, except as expressly stated in this section.

25 (6) Nothing contained in this section shall exempt a licensed out-of-state winery from  
26 obeying the laws of its resident state.

27 (7) Any person previously licensed as a small or farm winery under this chapter prior to

January 1, 2007, shall hereby be authorized to conduct business as a small farm winery licensee, until such time as the term of his or her small or farm winery license expires. Upon the expiration of the term remaining on his or her small or farm winery license, a licensee who is in good standing shall be issued a small farm winery license as part of the renewal process after he or she submits to the department~~[office]~~ the winery's federal basic permit and proof of its annual wine production.

➔Section 570. KRS 243.200 is amended to read as follows:

- (1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.
- (2) A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.
- (3) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.
- (4) Distilled spirits and wine may be transported by the holder of any license authorized by KRS 243.030 from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.
- (5) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed

store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department~~[office]~~ and the Department of Revenue upon request.

- (6) Distilled spirits and wine may be transported by the holder of any retail package or drink license issued under KRS 243.030 from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department~~[office]~~. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

→Section 571. KRS 243.290 is amended to read as follows:

A malt beverage special temporary license shall authorize the sale of malt beverages at retail for consumption on the premises of any regularly organized fair or racing association for a particular fair, race, or race meeting conducted by the association, or for special temporary occasions such as picnics, bazaars, and carnivals. The issuance or refusal of a malt beverage special temporary license and the exercise of the privilege granted by the license shall be subject to such regulations as the department~~[office]~~ may in each particular case deem necessary.

→Section 572. KRS 243.360 is amended to read as follows:

- (1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state brewer's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage license, a vendor license, a transporter's license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by



1 publication under KRS 424.130(1)(b) his or her intention to apply for a license.

2 (2) The notice shall conform in all material respects to the following requirements:

3 (a) The notice shall state: the name and address of the applicant if the applicant is  
4 an individual, the name and address of each partner and the name of the  
5 business and its address if the applicant is a partnership, and the name and  
6 address of each principal officer and director and the name and business  
7 address of the corporation if the applicant is a corporation;

8 (b) The notice shall specifically state the location of the premises for which the  
9 license is sought and the type of license being requested; and

10 (c) The notice shall state the date the application will be filed and shall contain  
11 the following statement: "Any person, association, corporation, or body politic  
12 may protest the granting of the license by writing the Department~~[Office]~~ of  
13 Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, Frankfort,  
14 Kentucky 40601, within thirty (30) days of the date of legal publication."

15 (3) Any protest received after the thirty (30) day period has expired shall not be  
16 considered a valid legal protest by the board.

17 ➔Section 573. KRS 243.380 is amended to read as follows:

18 (1) Applications for licenses provided for in KRS 243.030 and 243.050 shall be made  
19 to the director of the Division of Distilled Spirits. Applications for licenses  
20 provided for in KRS 243.040 shall be made to the director of the Division of Malt  
21 Beverages.

22 (2) All applications shall be on forms furnished by the department~~[office]~~. They shall  
23 be verified and shall set forth in detail such information concerning the applicant  
24 and the premises for which the license is sought as the board by regulation requires.  
25 Each application shall be accompanied by payment. Payment of the license fee may  
26 be by certified check, cash, a postal or express money order, or any other method of  
27 payment approved in writing by both the Finance and Administration Cabinet and

1 the Office of the State Treasurer. Promptly upon receipt thereof the board shall pay  
 2 the same into the State Treasury, giving the Department of Revenue copies of the  
 3 pay-in vouchers and such other supporting data as the Department of Revenue may  
 4 require for revenue control purposes.

5 ➔Section 574. KRS 243.390 is amended to read as follows:

6 (1) In addition to other information as the board may by administrative regulation  
 7 require, every application for a license under KRS 243.020 to 243.670 shall contain  
 8 the following information, given under oath:

9 (a) The name, age, Social Security number, address, residence, and citizenship of  
 10 each applicant;

11 (b) If the applicant is a partner, the name, age, Social Security number, address,  
 12 residence, and citizenship of each partner and the name and address of the  
 13 partnership;

14 (c) The name, age, Social Security number, address, residence, and citizenship of  
 15 each person interested in the business for which the license is sought, together  
 16 with the nature of that interest, and, if the applicant is a corporation, limited  
 17 partnership company, or limited liability company, the name, age, Social  
 18 Security number, address, and residence of each officer, director, member,  
 19 partner, and managerial employee and the citizenship of each, and the state  
 20 under the laws of which the corporate applicant is incorporated or organized.  
 21 The department~~{office}~~ may require the names of all the stockholders and the  
 22 percentage of stock held by each;

23 (d) The premises to be licensed, stating the street and number, if the premises has  
 24 a street number, and otherwise such a description that will reasonably indicate  
 25 the location of the premises;

26 (e) A statement that neither the applicant nor any other person referred to in this  
 27 section has been convicted of; any misdemeanor directly or indirectly

1           attributable to alcoholic beverages; any violation of KRS 218A.050,  
 2           218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120,  
 3           or 218A.130 within the two (2) years immediately preceding the application;  
 4           any felony, within five (5) years from the later of the date of parole or the date  
 5           of conviction; or providing false information to the department~~office~~  
 6           preceding the application; and that the applicant or any other person referred  
 7           to in this section has not had any license that has been issued to him under any  
 8           alcoholic beverage statute revoked for cause within two (2) years prior to the  
 9           date of the application; and

10       (f) A statement that the applicant will in good faith abide by every state and local  
 11           statute, regulation, and ordinance relating to the manufacture, sale, use of, and  
 12           trafficking in alcoholic beverages.

13   (2) If, after a license has been issued, there is a change in any of the facts required to be  
 14           set forth in the application, a verified supplemental statement in writing giving  
 15           notice of the change shall be filed with the board within ten (10) days after the  
 16           change.

17   (3) In giving any notice or taking any action in reference to a license, the board may  
 18           rely upon the information furnished in the application or in the supplemental  
 19           statement connected with the application. This information, as against the licensee  
 20           or applicant, shall be conclusively presumed to be correct. The information required  
 21           to be furnished in the application or supplemental statement shall be deemed  
 22           material in any prosecution for perjury.

23       ➔Section 575. KRS 243.400 is amended to read as follows:

24   (1) Every applicant for a brewer's, distiller's, rectifier's, bottling house or vintner's  
 25           license shall file with his application a bond to the state in the amount of one  
 26           thousand dollars (\$1,000). The bond shall be on a form approved by the board and  
 27           shall have corporate surety registered by the Department~~Office~~ of Insurance. The

1 applicant shall be the principal obligor and the state shall be the obligee. The bond  
 2 shall be conditioned upon the prompt payment by the obligor to the Department of  
 3 Revenue of any and all state taxes, with penalties and interest. The applicant may  
 4 file a continuing bond provided that each renewal application is accompanied by:

5 (a) An affidavit that the bond remains in force, and

6 (b) A copy of consent of surety.

7 An applicant for two (2) or more licenses of the same kind may file a blanket bond  
 8 covering all of his operations. The amount of such a bond shall be the same as if  
 9 separate bonds were furnished.

- 10 (2) Every applicant for a wholesaler's license shall file with his application a corporate  
 11 surety bond to the state in the minimum amount of two thousand dollars (\$2,000) or  
 12 an amount equal to three (3) times the monthly tax liability, whichever is less, and  
 13 up to a maximum amount of twenty-five thousand dollars (\$25,000). It shall be  
 14 sufficient, in the opinion of the board, which shall consider the financial reputation  
 15 and rating of the applicant, to insure payment to the state of the amount of any and  
 16 all taxes and penalties and interest for which the wholesaler may become liable. It  
 17 shall be on a form to be approved by the board and with surety on the bond  
 18 approved by the board. The applicant shall be the principal obligor and the state the  
 19 obligee. The bond shall be conditioned upon the prompt payment by the wholesaler  
 20 to the Department of Revenue of any and all state taxes, with penalties and interest.

21 ➔Section 576. KRS 243.460 is amended to read as follows:

22 If the payment of a license fee was erroneously made or the state director refuses to issue  
 23 the license the department~~[office]~~ shall authorize the payment of the refundable amount,  
 24 if at the expiration of thirty (30) days no appeal has been filed.

25 ➔Section 577. KRS 243.480 is amended to read as follows:

- 26 (1) Upon proceedings for the revocation of any license under KRS 243.520, the  
 27 Alcoholic Beverage Control Board, or the local alcoholic beverage administrator,

1 may in its or his or her discretion order a suspension of the license for any cause for  
 2 which it may, but is not required to, revoke the license under the provisions of KRS  
 3 243.490 and 243.500. However, the licensee may have the alternative, subject to the  
 4 approval of the Alcoholic Beverage Control Board or the local alcoholic beverage  
 5 administrator, to pay in lieu of part or all of the days of any suspension period, a  
 6 sum as follows: Distillers, rectifiers, vintners, brewers, and blenders, one thousand  
 7 dollars (\$1,000) per day; wholesale liquor licensees, four hundred dollars (\$400) per  
 8 day; wholesale beer licensees, four hundred dollars (\$400) per day; retail licensees  
 9 authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars  
 10 (\$50) per day; and all remaining licensees, fifty dollars (\$50) per day.

11 (2) Payments in lieu of suspension or for board-ordered agency server training,  
 12 collected on a cost recovery basis, collected by the Alcoholic Beverage Control  
 13 Board shall be deposited in the State Treasury and credited to the general  
 14 expenditure fund. Payments in lieu of suspension collected by local alcoholic  
 15 beverage administrators shall be deposited and used as local alcoholic beverage  
 16 license tax receipts are deposited and used.

17 (3) In addition to or in lieu of a suspension of a license, the board may order a licensee  
 18 to pay for and require attendance and completion by some or all of the licensee's  
 19 alcoholic beverage servers in the department's~~[agency's]~~ server training program.

20 (4) Appeals from orders of suspension and the procedure thereon shall be the same as  
 21 are provided for orders of revocation in KRS Chapter 13B.

22 ➔Section 578. KRS 243.490 is amended to read as follows:

23 (1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state  
 24 board if the licensee shall have violated any of the provisions of KRS Chapter 241,  
 25 243, or 244, or any rule or regulation of the board or of the Department of Revenue  
 26 relating to the regulation of the manufacture, sale, and transportation or taxation of  
 27 alcoholic beverages or if the licensee shall have violated or shall violate any Act of

1 Congress or any rule or regulation of any federal board, agency, or commission, or  
 2 any ordinance now, heretofore, or hereafter in effect relating to the regulation of the  
 3 manufacture, sale and transportation or taxation of intoxicating liquors or any rules  
 4 or regulations of any local alcoholic beverage authority or any similar body  
 5 heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and  
 6 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall  
 7 violate any of the laws, regulations, or ordinances above referred to, irrespective of  
 8 whether the licensee knew of or permitted the violation or whether the violation was  
 9 committed in disobedience of his instructions, or any license may be revoked for  
 10 any cause which the Alcoholic Beverage Control Board in the exercise of its sound  
 11 discretion deems sufficient. A license may be revoked for any of the reasons for  
 12 which the administrator would have been required to refuse a license if the facts had  
 13 been known.

- 14 (2) If it is determined that an applicant for a license or license renewal under the  
 15 provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the  
 16 Department~~Office~~ of Alcoholic Beverage Control may refuse to issue or renew  
 17 the license to the applicant.

18 ➔Section 579. KRS 243.502 is amended to read as follows:

- 19 (1) Except as provided in subsection (2) of this section, a person shall not sell,  
 20 purchase, deliver, give away, possess, use, or offer for sale or use an alcohol  
 21 vaporizing device or assist another in selling or using an alcohol vaporizing device.
- 22 (2) The provisions of subsection (1) of this section shall not apply to:
- 23 (a) A hospital that operates primarily for the purpose of conducting scientific  
 24 research;
- 25 (b) A public institution that is a member of the postsecondary education system or  
 26 an independent institution as defined in KRS 164.001 that is conducting bona  
 27 fide research;

- 1 (c) A pharmaceutical or biotechnology company conducting bona fide research;
- 2 (d) A manufacturer or distributor that sells an alcohol vaporizing device to one (1)
- 3 of the entities set out in this subsection; or
- 4 (e) A device used by a manufacturer in the manufacturing process.

5 (3) Persons holding an alcohol vaporizing device in accordance with subsection (2)(a)  
 6 to (d) of this section shall retain the alcohol vaporizing device in a secure location  
 7 such that it is used only for research purposes. They shall not transfer the device to  
 8 an entity or institution other than one covered by subsection (2) of this section and  
 9 shall destroy the device when it is no longer of use. The department~~{office}~~ may  
 10 promulgate administrative regulations authorizing additional reports if the  
 11 department~~{office}~~ deems the reports reasonably necessary.

12 ➔Section 580. KRS 243.510 is amended to read as follows:

13 (1) The department~~{office}~~ shall print and furnish to each licensee under KRS 243.020  
 14 to 243.670 a statement of the causes for which licenses may be revoked. That  
 15 statement shall be prepared by the state director and delivered to the licensee with  
 16 his license, or as soon after that as may be practical. The director shall take from  
 17 each licensee a signed receipt stating that he has received and read the statement.

18 (2) Any changes in or additions to the causes for which licenses may be revoked shall  
 19 also be sent by the director to each licensee at his address as it appears in his  
 20 application or the last amendment to his application, as soon as may be practical  
 21 after such changes in or additions to the causes for which licenses may be revoked  
 22 become effective.

23 (3) Failure of the department~~{office}~~ to furnish the statement or to send notice of  
 24 changes, or the failure of the licensee to receive or read the statement, or any error  
 25 contained in the statement or notice of changes shall not be an excuse or  
 26 justification for any violation of law, or prevent, remit or decrease any penalty for a  
 27 violation.

1        ➔ Section 581. KRS 243.540 is amended to read as follows:

2        (1) The provisions of this section shall apply to any licensee who is unable to continue  
3        in business at the licensed premises because of an act of God; a casualty; an  
4        acquisition by a federal, state, city, or other governmental agency under the power  
5        of eminent domain granted to the government or agency; a voluntary or involuntary  
6        acquisition by any private corporation through the corporation's power of eminent  
7        domain; a loss of lease because the landlord fails to renew an existing lease; court  
8        action; or other verifiable business reason.

9        (2) If a license issued by the department~~{office}~~ has been revoked, the former licensee  
10       may, under the supervision of the state director, dispose of and transfer his or her  
11       stock to another licensee if the disposition is completed within ninety (90) days and  
12       the licensee is a distiller, rectifier, vintner, or brewer. The disposition shall be  
13       completed within thirty (30) days if the licensee is a wholesaler or distributor or  
14       within twenty (20) days if the licensee is a retailer.

15       (3) A retail licensee in good standing with the department~~{office}~~ who voluntarily  
16       ceases to operate his or her business for any reason other than revocation by the  
17       board or a court order shall dispose of all alcoholic beverage inventory within thirty  
18       (30) days of the event. The following requirements shall apply to the disposition of  
19       the licensee's inventory:

20       (a) If the premises is still open to the public and the licensee has not yet  
21       surrendered the license, the licensee shall sell alcoholic beverages only to the  
22       public and shall not sell below costs;

23       (b) If a licensee has terminated his or her business and has surrendered his or her  
24       license to the department~~{office}~~, he or she shall submit a written request for  
25       approval from the state director within ten (10) days in advance of the sale to  
26       dispose of the licensee's remaining inventory. The request shall identify the  
27       retailer who is purchasing the inventory, the proposed date of the sale, and the



1 quantity, types, and brands of alcohol to be sold; and

2 (c) If a licensee has more than one (1) licensed retail premises and closes one (1)  
3 or more retail premises and seeks to transfer his or her inventory to another  
4 licensed retail premises he or she owns, he or she shall submit a request in  
5 writing to the state director at least ten (10) days before the inventory is  
6 transferred. The request shall identify the premises to which the alcohol is  
7 being transferred, the proposed date of the transfer, and the quantity, types,  
8 and brands of alcohol to be sold.

9 (4) If a retail licensee files for bankruptcy or is directed by a court to dispose of  
10 inventory to satisfy a lien or judgment, the inventory may be sold only to a retail  
11 alcoholic beverage licensee. The bankrupt licensee or the licensee subject to the  
12 court order shall notify the department~~office~~ of the sale and shall attach a copy of  
13 the court order or the judgment directing the sale and a list of the quantity, types,  
14 and brands of alcohol to be sold. Any licensee who purchases the inventory shall  
15 notify the department~~office~~ within five (5) days after the transfer of the specific  
16 inventory sold.

17 ➔Section 582. KRS 243.630 is amended to read as follows:

18 (1) For purpose of this section, "transfer" means:

19 (a) The transfer to a new person or entity of ten percent (10%) or more ownership  
20 interest in any license issued under KRS 243.020 to 243.670; or

21 (b) The transfer in bulk, and not in the ordinary course of business, of a major part  
22 of the fixtures, materials, supplies, merchandise, or other inventory of a  
23 licensee's business.

24 (2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed  
25 premises shall not be transferable or assignable to any other person or to any other  
26 premises or to any other part of the building containing the licensed premises,  
27 unless a transfer or assignment is authorized by the state director in the exercise of

- 1 his sound discretion under KRS 243.640 or 243.650. For the purposes of this  
2 section, each railroad dining car shall be deemed premises to be separately licensed.
- 3 (3) A licensee shall not acquire or otherwise dispose of any interest in a licensed  
4 premises or any license issued by the department~~[office]~~, by sale of assets, stock,  
5 inventory, control or right of control, or activities on the licensed premises without  
6 prior approval of the state director. The state director shall grant approval if the  
7 person acquiring the interest meets the qualifications for a new applicant.
- 8 (4) Any acquisition of interest in a license without prior authorization shall be void.
- 9 (5) All applications for approval of a transfer shall be made in writing to the state  
10 director having jurisdiction over the license.
- 11 (6) Applications for approval of a transfer shall be made under oath or affirmation,  
12 shall be signed by both the transferor and the transferee, and shall contain such  
13 other information as the department~~[office]~~ may prescribe.
- 14 (7) The appropriate state director shall grant or deny the application within sixty (60)  
15 days of the date the application is substantially complete or on a later date that is  
16 mutually acceptable to the director and the transferee, but it shall not be acted upon  
17 before the end of the public protest period outlined in KRS 243.360.
- 18 (8) No licensee or other person seeking to acquire an interest in an existing license shall  
19 transfer control or assume control of any licensed premises by agreement or  
20 otherwise without the written consent of the state director of malt beverages or the  
21 state director of distilled spirits or both.
- 22 (9) A licensee shall not transfer his or her license or any interest in the license while  
23 any proceedings against the license or the licensee for a violation of any statute or  
24 regulation which may result in the suspension or revocation of the license are  
25 pending.
- 26 (10) A licensee shall not transfer his or her license or any interest he or she has in the  
27 license if the licensee owes a debt on the inventory to a wholesaler responsible for

1 the collection and payment of the tax imposed under KRS 243.884.

2 (11) A licensee shall not transfer his or her license or any interest in the license if the  
 3 licensee owes the Commonwealth of Kentucky for taxes as defined in KRS  
 4 243.500(5). A transfer shall not take place until the ~~department~~~~office~~ is notified  
 5 by the Kentucky Department of Revenue that the licensee's indebtedness has been  
 6 paid or resolved to the satisfaction of the Department of Revenue. This section shall  
 7 not prohibit a transfer of a license or an interest in a license by a trustee in  
 8 bankruptcy if all other requirements of this section are met.

9 ➔Section 583. KRS 243.730 is amended to read as follows:

10 (1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by  
 11 KRS 243.720(1) and (2) on or before the twentieth day of the calendar month  
 12 next succeeding the month in which possession or title of the distilled spirits  
 13 and wine is transferred from the wholesaler to retailers or consumers in this  
 14 state, in accordance with rules and regulations of the Department of Revenue  
 15 designed reasonably to protect the revenues of the Commonwealth.

16 (b) Distributors or retailers of malt beverages, who purchase malt beverages  
 17 directly from a brewer, shall pay and report the tax levied by KRS 243.720(3)  
 18 on or before the twentieth day of the calendar month next succeeding the  
 19 month in which the brewer sells, transfers, or passes title of the malt beverage  
 20 to the distributor or retailer, in accordance with rules and regulations of the  
 21 Department of Revenue designed reasonably to protect the revenues of the  
 22 Commonwealth. The credit allowed brewers in this state, under the provisions  
 23 of KRS 243.720(3)(b), shall flow through to the distributor or retailer who  
 24 purchases malt beverages directly from the brewer. If a brewer sells, transfers,  
 25 or passes title to malt beverages to any of its employees for home  
 26 consumption or to any charitable or fraternal organization pursuant to the  
 27 provisions of KRS 243.150, the brewer shall be responsible for paying and

1 reporting the tax levied by KRS 243.720(3) in accordance with the provisions  
2 of subsection (c) of this section.

3 (c) Every brewer selling, transferring, or passing title to malt beverages to any  
4 person in this state other than a distributor or retailer, and every other person  
5 selling, transferring, or passing title of distilled spirits, wine, or malt  
6 beverages to distributors, retailers, or consumers shall report and pay the tax  
7 levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the  
8 calendar month next succeeding the month in which possession or title of  
9 distilled spirits, wine, or malt beverages is transferred to a distributor, retailer,  
10 or consumer in this state, in accordance with rules and regulations of the  
11 Department of Revenue designed reasonably to protect the revenues of the  
12 Commonwealth.

13 (d) Every distributor, retailer, or consumer possessing, using, selling, or  
14 distributing distilled spirits, wine, or malt beverages in this state upon which  
15 the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been  
16 paid shall be jointly and severally liable for reporting and paying the tax due,  
17 in accordance with rules and regulations of the Department of Revenue  
18 designed reasonably to protect the revenues of the Commonwealth. Such  
19 liability shall not be extinguished until the tax has been paid to the  
20 Department of Revenue.

21 (e) Notwithstanding the provisions of paragraph (a) of this subsection, every  
22 owner of a small farm winery shall pay and report the tax levied by KRS  
23 243.720 (1) and (2) on a quarterly basis, in accordance with administrative  
24 regulations of the Department of Revenue designed reasonably to protect the  
25 revenues of the Commonwealth.

26 (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by  
27 sale or gift distilled spirits and wine shall qualify with the Department of Revenue.

1 In order to so qualify, each wholesaler shall furnish to the Department of Revenue a  
 2 certified copy of the bond required to be filed with the Department~~[Office]~~ of  
 3 Alcoholic Beverage Control under the provisions of KRS 243.400(2).

4 (3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or  
 5 distributing by sale or gift malt beverages, or before importing malt beverages into  
 6 the state, shall qualify with the Department of Revenue in such manner as the  
 7 Department of Revenue~~[department]~~ may require.

8 (4) The Department of Revenue~~[department]~~ shall have the power to require a bond  
 9 from any other person liable for Kentucky distilled spirits, wine, or malt beverage  
 10 taxes provided such person is not otherwise required to post a bond under the  
 11 provisions of this section. The amount of the bond for persons liable for Kentucky  
 12 distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2).  
 13 The amount of the bond for persons liable for Kentucky malt beverage taxes shall  
 14 be in the minimum amount of one thousand dollars (\$1,000) or an amount equal to  
 15 three (3) times the person's average monthly Kentucky malt beverage tax liability,  
 16 whichever is greater. The bond shall be on a form prescribed by the Department of  
 17 Revenue~~[department]~~ and have corporate surety registered by the  
 18 Department~~[Office]~~ of Insurance. The person liable for the tax shall be the principal  
 19 obligor and the state the obligee. The bond shall be conditioned upon the prompt  
 20 payment by the person to the Department of Revenue of all malt beverage taxes  
 21 due, with penalties and interest.

22 ➔Section 584. KRS 243.895 is amended to read as follows:

23 (1) All licensed retail vendors of alcoholic beverages shall post in a prominent place  
 24 easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14)  
 25 inches in size, with letters at least one (1) inch high, supplied by the  
 26 Department~~[Office]~~ of Alcoholic Beverage Control, and with gender-neutral  
 27 language supplied by the Cabinet for Health and Family Services, which shall warn

1 that drinking alcoholic beverages prior to conception or during pregnancy can cause  
2 birth defects.

- 3 (2) A person who violates subsection (1) of this section shall be subject to a fine of not  
4 less than ten dollars (\$10) nor more than fifty dollars (\$50).

5 ➔Section 585. KRS 244.040 is amended to read as follows:

- 6 (1) A brewer or distributor shall not sell alcoholic beverages to any person in this state  
7 for any consideration except for cash paid at or before the time of delivery.

8 For purposes of this section, "cash" includes the sale of malt beverages by electronic  
9 transfers if the following conditions are met:

- 10 (a) The use of electronic transfers shall be voluntary and shall be agreed to by the  
11 affected brewer, distributor, and retailer;
- 12 (b) The brewer shall not pay or credit back in any way to the distributor any share  
13 of the cost that is attributable to the electronic transfer;
- 14 (c) The distributor shall not pay or credit back in any way to the retailer any share  
15 of the cost that is attributable to the electronic fund transfer;
- 16 (d) The transfer of funds shall be initiated by the brewer or the distributor;
- 17 (e) The distributor may debit the retailer's bank account for the exact amount due  
18 based on the amount of alcoholic beverages delivered;
- 19 (f) Electronic fund transfers that are rejected or denied at the time of sale for any  
20 reason shall be treated in the same manner as checks drawn on insufficient  
21 funds; and
- 22 (g) Each participating retail licensee and each distributor maintain accurate  
23 records of all electronic fund transfers in accordance with department~~office~~  
24 statutes and administrative regulations.

- 25 (2) A brewer or distributor shall not furnish or deliver any returnable bottled malt  
26 beverage without collecting a minimum container charge or deposit of sixty cents  
27 (\$0.60) per case of twenty-four (24) twelve-ounce bottles or its equivalent in the

1 same manner that the price of the malt beverage is collected.

2 (3) This section shall not prohibit a licensee from crediting to a purchaser the actual  
3 prices charged for packages or containers returned by the original purchaser as a  
4 credit on any sale, or from refunding to any purchaser the amount paid by the  
5 purchaser for containers or as a deposit on containers when the title is retained by  
6 the vendor, if the containers or packages have been returned to the brewer or  
7 distributor.

8 (4) No right of action shall exist to collect any claim for credit extended contrary to this  
9 section.

10 (5) This section shall not apply to sales by wholesalers or distributors to licensees that  
11 are private clubs or voluntary associations.

12 ➔Section 586. KRS 244.050 is amended to read as follows:

13 (1) No retail licensee shall give away any alcoholic beverage in any quantity or deliver  
14 it in any quantity for less than a full monetary consideration, except as provided by  
15 KRS 243.155, 243.157, and subsection (2) of this section.

16 (2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or  
17 (26) may, after acquiring a license under KRS 243.030(39), allow customers to  
18 sample distilled spirits and wine under the following conditions:

19 (a) Sampling shall be permitted only on licensed premises and, for licensees  
20 licensed under KRS 243.030(7), (8), or (26), during regular business hours;

21 (b) A licensee shall not charge for the samples provided to customers;

22 (c) Sample sizes shall not exceed:

23 1. One (1) ounce for wine; and

24 2. One-half (1/2) ounce for distilled spirits; and

25 (d) A licensee shall limit a customer to:

26 1. Two (2) distilled spirits samples per day; and

27 2. Six (6) wine samples per day.

- 1 (3) Retailers licensed under KRS 243.030(7) or (8) shall:
- 2 (a) Notify the Department~~[Office]~~ of Alcoholic Beverage Control at least seven
- 3 (7) days in advance of conducting a sampling event; and
- 4 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours
- 5 between 12 noon and 8 p.m.
- 6 ➔Section 587. KRS 244.085 is amended to read as follows:
- 7 (1) As used in KRS 244.083 and this section: "Premises" has the meaning it is given in
- 8 KRS 241.010 and also means the place of business of a person licensed to sell
- 9 alcoholic beverages including, in the case of drive-in establishments, the entire lot
- 10 upon which the business establishment is situated.
- 11 (2) A person under 21 years of age shall not enter any premises licensed for the sale of
- 12 alcoholic beverages for the purpose of purchasing or receiving any alcoholic
- 13 beverages.
- 14 (3) A person under 21 years of age shall not possess for his or her own use or purchase
- 15 or attempt to purchase or have another purchase for him or her any alcoholic
- 16 beverages. No person shall aid or assist any person under 21 years of age in
- 17 purchasing or having delivered or served to him or her any alcoholic beverages.
- 18 (4) A person under 21 years of age shall not misrepresent his or her age for the purpose
- 19 of inducing any licensee, or the licensee's agent, servant, or employee, to sell or
- 20 serve any alcoholic beverages to the underage person.
- 21 (5) A person under 21 years of age shall not use, or attempt to use any false, fraudulent,
- 22 or altered identification card, paper, or any other document to purchase or attempt to
- 23 purchase or otherwise obtain any alcoholic beverage.
- 24 (6) Except as provided in KRS 244.087 and 244.090, a licensee, or his or her agents,
- 25 servants, or employees shall not permit any person under twenty-one (21) years of
- 26 age to remain on any premises where alcoholic beverages are sold by the drink or
- 27 consumed on the premises, unless:



- 1 (a) The usual and customary business of the establishment is a hotel, motel,  
2 restaurant, convention center, convention hotel complex, racetrack, simulcast  
3 facility, golf course, private club, park, fair, church, school, athletic complex,  
4 athletic arena, theater, small farm winery, distillery or brewery or winery tour,  
5 convenience store, grocery store, drug store, or similar establishment;
- 6 (b) All alcoholic beverage inventory is kept in a separate, locked department at all  
7 times when minors are on the premises;
- 8 (c) Written approval has been granted by the department~~office~~ to allow minors  
9 on the premises until 10 p.m. where the sale of alcohol is incidental to a  
10 specific family or community event including but not limited to weddings,  
11 reunions, or festivals. The licensee's request shall be in writing and shall  
12 specifically describe the event for which approval is requested. The state  
13 director shall approve or deny the request in writing; or
- 14 (d) The usual and customary business of the establishment is an entertainment  
15 facility where prebooked concerts are held. For the purpose of this paragraph,  
16 house bands, disc jockeys, and karaoke are not considered concerts. During  
17 the times minors are on the premises under this paragraph, the licensee shall:
- 18 1. Maintain the responsibility of all ticket sales;
  - 19 2. Sell the concert tickets directly to the patron or have a contractual  
20 agreement with a vendor or promoter to sell the concert tickets for the  
21 licensee;
  - 22 3. Maintain records of all gross concert ticket sales. The concert tickets  
23 shall have the name of a band or performer as well as the date of the  
24 concert;
  - 25 4. Permit minors to be in the area where the concert is taking place only  
26 during the time of the concert; and
  - 27 5. Prohibit minors on the premises until thirty (30) minutes prior to the

concert and prohibit minors from remaining on the premises more than thirty (30) minutes after the concert performance has ended.

(7) Except as provided in subsection (6) of this section, a licensee or the licensee's agent, servant, or employee shall not allow any person under the age of twenty-one (21) to remain on any premises that sells alcoholic beverages by the package unless the underage person is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(8) Except as provided in subsection (6) of this section, a person under the age of twenty-one (21) shall not remain on any premises that sells alcoholic beverages by the package unless he or she is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment.

(9) A violation of subsection (2), (3), (4), (5), or (8) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

➔Section 588. KRS 244.150 is amended to read as follows:

(1) Each licensee under KRS 243.020 to 243.670 shall keep and maintain upon the licensed premises, or make readily available upon request of the department~~office~~ or the Department of Revenue, adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages, in the manner required by regulations of the department~~office~~ and the Department of Revenue.

(2) The commissioner~~executive director~~ may require common carriers to provide information in such form as he or she deems wise respecting all shipments of alcoholic beverages to, from, or between persons in Kentucky.

➔Section 589. KRS 244.165 is amended to read as follows:

1 (1) Except as provided in subsection (2) of this section, it shall be unlawful for any  
 2 person in the business of selling alcoholic beverages in another state or country to  
 3 ship or cause to be shipped any alcoholic beverage directly to any Kentucky resident  
 4 who does not hold a valid wholesaler or distributor license issued by the  
 5 Commonwealth of Kentucky.

6 (2) A small farm winery located in another state may ship wine to a customer in  
 7 Kentucky if:

8 (a) The wine is purchased by the customer in person at the winery;

9 (b) The wine is shipped by licensed common carrier; and

10 (c) The amount of wine shipped is limited to two (2) cases per customer per visit.

11 (3) Any person who violates subsection (1) of this section shall, for the first offense, be  
 12 mailed a certified letter by the department~~office~~ ordering that person to cease and  
 13 desist any shipments of alcoholic beverages to Kentucky residents, and for the  
 14 second and each subsequent offense, be guilty of a Class D felony.

15 ➔Section 590. KRS 244.167 is amended to read as follows:

16 (1) It is unlawful:

17 (a) For any distiller, rectifier, vintner, brewer, or importer to solicit, accept, or fill  
 18 any order for any distilled spirits, wine, or malt beverage from any wholesaler  
 19 or distributor in the Commonwealth of Kentucky unless the supplier is the  
 20 primary source of supply for the brand of alcoholic beverage sold or sought to  
 21 be sold.

22 (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to  
 23 order, purchase, or receive any alcoholic beverage from any supplier unless  
 24 the supplier is the primary source of supply for the brand ordered, purchased,  
 25 or received.

26 (c) For a retailer to order, purchase, or receive any distilled, vinous, or malt  
 27 alcoholic beverage from any source other than any of the following:

- 1           1. A wholesaler or distributor who has purchased the brand from the
- 2           primary source of supply.
- 3           2. A wholesaler or distributor who is the designated representative of the
- 4           primary source of supply in this Commonwealth and who has purchased
- 5           the alcoholic beverage from the designated representative of the primary
- 6           source of supply within or without this Commonwealth.
- 7           (d) For alcoholic beverages to be transported from a wholesaler's or distributor's
- 8           warehouse within twenty-four (24) hours of the time they are unloaded.
- 9           (2) The Department~~{Office}~~ of Alcoholic Beverage Control may suspend for a period
- 10          not to exceed one (1) year the license of any wholesaler, distributor, or retailer who
- 11          violates the provisions of this section.
- 12          (3) Upon determination by the Department~~{Office}~~ of Alcoholic Beverage Control that
- 13          a primary source of supply has violated the provisions of this section, no
- 14          wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages
- 15          from the primary source of supply for a period of one (1) year.
- 16          (4) For the purposes of this section, "primary source of supply" or "supplier" means the
- 17          distiller, producer, brewer, owner of the commodity at the time it becomes a
- 18          marketable product, bottler, or authorized agent of the brand owner. In the case of
- 19          imported products, the primary source of supply means either the foreign producer,
- 20          owner, bottler, or agent of the prime importer from, or the exclusive agent in, the
- 21          United States of the foreign distiller, producer, bottler, or owner.

22          ➔Section 591. KRS 244.190 is amended to read as follows:

23          Any peace officers, state administrators, and field representatives of the

24          department~~{office}~~ may, upon probable cause, without warrant seize contraband

25          regardless of whether it is in dry territory or not, and hold it subject to the order of the

26          court before which the owner or one in possession of the contraband has been charged

27          with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant,

1 the court shall enter an order for the destruction of all contraband property, except  
 2 firearms or ammunition, included in KRS 244.180(1), (2), (3), (4), and (5). Contraband  
 3 firearms and ammunition shall be transferred to the Department of Kentucky State Police  
 4 for disposition as provided in KRS 500.090.

5 ➔Section 592. KRS 244.195 is amended to read as follows:

6 (1) Title to contraband included in KRS 244.180(1), (2), (3), (4), and (5) seized shall be  
 7 vested in the appropriate court within whose jurisdiction the seizure occurred,  
 8 irrespective of whether such contraband was seized by peace officers of the city or  
 9 county or state administrators or field representatives of the department~~office~~,  
 10 notwithstanding the provisions of KRS 242.380.

11 (2) The court shall order the sheriff for the county in which such contraband as  
 12 included in subsection (1) of this section was seized to destroy such contraband,  
 13 except firearms or ammunition, upon conviction of the defendant.

14 (3) Contraband firearms and ammunition shall be transferred to the Department of  
 15 Kentucky State Police for disposition as provided in KRS 500.090.

16 ➔Section 593. KRS 244.200 is amended to read as follows:

17 (1) Contraband property included in subsection (6) of KRS 244.180 shall be subject to  
 18 the right of any owner or lienor, whose lien is valid and of record, to intervene and  
 19 establish his rights in the property by proving that the property was being used in  
 20 connection with traffic in alcoholic beverages without the knowledge, consent or  
 21 approval of the owner or lienor. If the owner of the property does so prove, the court  
 22 shall order the property restored to him. If the lienor so proves, the court shall order  
 23 a sale of the property at public auction, unless an agreement is made between the  
 24 lienor and the board, which shall not become final until it has been approved by the  
 25 court. The board may deliver any property found to be contraband to a lienor whose  
 26 claim has been established by order of a court of competent jurisdiction, upon  
 27 payment to the board of the difference between the fair market value of the property

1 so seized and the recorded claim of the lienor.

2 (2) Where an agreement has been made between the lienor and the board and approved  
3 by the court, a public auction shall not be required. If an agreement is not entered  
4 into between the board and the lienor or approved by the court, and a public auction  
5 is required to be held, the public auction shall be conducted by the sheriff of the  
6 county in which the property is seized. The sheriff shall receive and be allowed the  
7 same fees as allowed for sales under execution.

8 (3) The expenses of keeping and selling such property, and the amount of all valid  
9 recorded liens that are established by intervention as being bona fide, shall be paid  
10 out of the proceeds of the sales, whether they are private or public. The balance  
11 shall be paid into the State Treasury and be credited to the general fund.

12 (4) If the defendant is acquitted, no property seized as contraband in connection with  
13 the arrest of the defendant shall be ordered returned or restored unless the person  
14 from whose possession the property was taken proves that he was in lawful  
15 possession of the property, and if no other person appears and proves that he owns  
16 the property or has a valid recorded lien on the property and that the property was  
17 being used without his knowledge and consent, title shall vest in the board at the  
18 end of ninety (90) days.

19 (5) If the owners or lienholders of any contraband seized by state administrators or field  
20 representatives of the department~~{office}~~ or turned over to the department~~{office}~~  
21 by other officials, cannot be located within ninety (90) days, and during that time  
22 fail to appear and claim the contraband, or if the owner or lienholder appears and  
23 agrees, title to the contraband shall immediately vest in the board, in which event it  
24 may sell the contraband at a private sale.

25 ➔Section 594. KRS 244.230 is amended to read as follows:

26 (1) KRS 244.260 and 244.340 notwithstanding, the regulations of the Bureau of  
27 Internal Revenue in the United States Department of the Treasury, as they are now

1 or may be hereafter, with respect to the labeling and standards of fill of distilled  
 2 spirits and wine in their original sealed packages, are adopted and any distilled  
 3 spirits and wine shall be deemed to be properly labeled under all the laws of this  
 4 state, if the labels and standards of fill conform to those regulations.

5 (2) Distilled spirits not produced or bottled in the United States shall be labeled in the  
 6 same manner that distilled spirits produced or bottled in this state are required to be  
 7 labeled.

8 (3) Subsections (1) and (2) shall not prevent the department~~office~~ from promulgating  
 9 regulations on this subject that are in addition to but not contrary to the regulations  
 10 of the Bureau of Internal Revenue in the United States Department of the Treasury.

11 ➔Section 595. KRS 244.370 is amended to read as follows:

12 No whiskey produced in Kentucky, except whiskey the barrel containing which is  
 13 branded "Corn Whiskey" under the internal revenue laws, shall be bottled in Kentucky or  
 14 removed from this state unless such whiskey has been aged in oak barrels for a period of  
 15 not less than one (1) full year; provided, however, that whiskey aged less than one (1)  
 16 year may be removed from the state and bottled, or bottled in Kentucky, if the word  
 17 "Kentucky" or any word or phrase implying Kentucky origin does not appear on the front  
 18 label or elsewhere on the retail container or package except in the name and address of  
 19 the distiller as required by federal regulation. For violations of this section, the  
 20 department~~office~~ shall revoke the permit of the licensee from whose warehouse or  
 21 premises such whiskey shall have been removed or in which such whiskey shall have  
 22 been bottled.

23 ➔Section 596. KRS 244.440 is amended to read as follows:

24 (1) Every resident and nonresident distiller, rectifier, blender, or vintner and  
 25 nonresident wholesaler who owns or has an exclusive interest in any particular  
 26 brands, which are intended for sale or sold in this state, shall register on a form to  
 27 be provided by the department~~office~~, the names of the wholesalers in this state to

whom distributing rights have been granted on one or more or all of the brands of distilled spirits or wine offered for sale or sold in this state.

- (2) No distiller, rectifier, blender, or vintner shall offer to sell or sell, and no wholesaler shall offer to purchase or purchase, any brands which have not been registered as provided by this section.

➔Section 597. KRS 244.450 is amended to read as follows:

- (1) No wholesaler shall import, buy, offer for sale, or sell any brands offered for sale or sold by any nonresident distiller, rectifier, blender, vintner, or wholesaler without:

(a) Having previously been granted distributing rights by the nonresident distiller, rectifier, blender, vintner, or wholesaler; and

(b) Having previously applied for and received from the department~~{office}~~ an importer's permit.

- (2) No wholesaler shall apply for or receive an importer's permit to import, buy, offer to sell, or sell any brands offered for sale or sold by any nonresident distiller, rectifier, blender, vintner, or wholesaler until the nonresident distiller, rectifier, blender, vintner, or wholesaler has granted distributing rights to the wholesaler.

➔Section 598. KRS 244.510 is amended to read as follows:

- (1) The department~~{office}~~ may in its discretion adopt any regulations of the Bureau of Internal Revenue in the United States Department of the Treasury relating to labeling and advertising of malt beverages.

- (2) The adoption of regulations of the Bureau of Internal Revenue in the United States Department of the Treasury shall not become effective as to any brewer or distributor having labels on hand that would be outlawed by adoption of the regulation until a period of ninety (90) days from the date of adoption.

➔Section 599. KRS 244.585 is amended to read as follows:

- (1) It shall be unlawful for any distributor to sell any brand of malt beverage in the Commonwealth of Kentucky, except in the territory described in a written



1 agreement between the supplier or brewer and distributor, authorizing sale by the  
 2 distributor of that brand within a designated area, and within that designated area  
 3 the distributor shall not refuse to sell or offer reasonable service to licensed retailers  
 4 during the normal business hours of the distributor. Where a supplier or brewer sells  
 5 several brands, the agreement need not apply to all brands sold by the supplier or  
 6 brewer and may apply to only one (1) brand. No supplier or brewer shall provide by  
 7 the written agreement for the distribution of a brand of malt beverages to more than  
 8 one (1) distributor for all or any part of the designated territory. All territorial  
 9 agreements shall be filed with the department~~office~~.

10 (2) Each distributor shall comply with such quality control standards as are specified in  
 11 writing from time to time by the owner of the trademark of the brand of malt  
 12 beverage, provided those controls are:

- 13 (a) Normal industry practice;
- 14 (b) Reasonably related to the maintenance of quality control;
- 15 (c) Consistent with the provisions of this chapter and all regulations promulgated
- 16 pursuant thereto; and
- 17 (d) The distributor has received written notice of them from such owner.

18 (3) A distributor may sell to only those licensed retailers, religious, charitable or  
 19 fraternal organizations located within his designated geographical territory as  
 20 provided in this section and to his employees and to other distributors of the same  
 21 brand. No brand of malt beverage may be sold in the Commonwealth of Kentucky  
 22 without prior written approval of the brewer and supplier filed with the  
 23 department~~office~~.

24 (4) A territorial designation in any agreement between a distributor and brewer or  
 25 supplier pursuant to this section shall be modified only in accordance with all the  
 26 rights and duties of the distributor and brewer or supplier contained in any written  
 27 agreement between them or by such other action of the brewer, supplier or

distributor that is consistent with the terms of their agreement, and such modification shall be filed pursuant to the provisions of this section. The board shall require each party to verify that the level of service within the designated territory will not be adversely affected by such modification. When a distributor is prevented from selling or servicing retailers within his territory due to natural disasters, labor disputes or other such causes beyond his control, the distributor may allow another distributor of the same brand of malt beverages to sell and service that brand within his territory upon approval of the brewer or supplier.

- (5) No provisions of any agreement shall expressly or impliedly establish or maintain the resale price of any brand of malt beverage by the distributor.

→Section 600. KRS 247.088 is amended to read as follows:

The College of Agriculture of the University of Kentucky, through the agricultural experiment station and the cooperative extension service shall assess the effect of agricultural practices upon groundwater resources, establish basic and applied research programs to determine agricultural management practices which may be necessary to protect groundwater resources, and establish and implement an educational program to encourage the use of agricultural practices which conserve, maintain, and improve soil productivity and to assure protection of groundwater. The college shall seek the cooperation of the Division of Conservation within the Energy and Environment~~Environmental and Public Protection~~ Cabinet, the Kentucky Farm Bureau, and other organizations in implementing the educational program.

→Section 601. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be

1       acquired by the applicant for the purpose of producing ethanol for fuel use and any  
 2       additional information deemed necessary by the Department of Revenue for the  
 3       proper administration of KRS 247.910 and this section. The Department for  
 4       Energy Development and Independence~~[Office of Energy Policy]~~ shall provide  
 5       technical assistance and factual information as requested in writing by the  
 6       Department of Revenue. If the Department of Revenue finds that the facility  
 7       qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter  
 8       a finding and issue a certificate to that effect. The effective date of the certificate  
 9       shall be the date of issuance of the certificate.

10     (2) Before issuing an alcohol production tax exemption certificate, the Department of  
 11     Revenue shall give notice in writing by mail to the Department for Energy  
 12     Development and Independence~~[Office of Energy Policy]~~, and shall afford to the  
 13     applicant and to the Department for Energy Development and  
 14     Independence~~[Office of Energy Policy]~~ an opportunity for a hearing. On like notice  
 15     and opportunity for a hearing, the Department of Revenue shall on its own initiative  
 16     revoke the certificate when any of the following appears:

- 17       (a) The certificate was obtained by fraud or misrepresentation;
- 18       (b) The holder of the certificate has failed substantially to proceed with the  
 19       construction, reconstruction, installation, or acquisition of the alcohol  
 20       production facilities; or
- 21       (c) The structure or equipment or both to which the certificate relates has ceased  
 22       to be used for the primary purpose of alcohol production for fuel use and is  
 23       being used for a different purpose.

24     (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the  
 25     certificate, may modify it.

26     (4) On mailing of notice of the action of the Department of Revenue revoking or  
 27     modifying a certificate as provided in subsection (5) of this section, the certificate

1 shall cease to be in force or shall remain in force only as modified as the case may  
2 require.

3 (5) An alcohol production tax exemption certificate, when issued, shall be sent by  
4 certified mail to the applicant and the notice of issuance in the form of certified  
5 copies thereof shall be sent to the Department for Energy Development and  
6 Independence~~[Office of Energy Policy]~~. Notice of an order of the Department of  
7 Revenue denying, revoking, or modifying a certificate in the form of certified  
8 copies thereof shall be sent by certified mail to the applicant or the holder and shall  
9 be sent to the Department for Energy Development and Independence~~[Office of~~  
10 ~~Energy Policy]~~. The applicant or holder and the Department for Energy  
11 Development and Independence~~[Office of Energy Policy]~~ shall be deemed parties  
12 for the purpose of the review afforded by subsection (6) of this section.

13 (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of  
14 an alcohol production tax exemption certificate may appeal from the final ruling of  
15 the Department of Revenue to the Kentucky Board of Tax Appeals as provided in  
16 KRS 131.340.

17 (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not  
18 involving a different location or use, the holder of an alcohol production tax  
19 exemption certificate for the facility may transfer the certificate by written  
20 instrument to the person who, except for the transfer of the certificate, would be  
21 obligated to pay taxes on the facility. The transferee shall become the holder of the  
22 certificate and shall have all rights pertaining thereto, effective as of the date of  
23 transfer of the certificate. The transferee shall give written notice of the effective  
24 date of the transfer, together with a copy of the instrument of transfer to the  
25 Department for Energy Development and Independence~~[Office of Energy Policy]~~  
26 and the Department of Revenue.

27 (8) In the event an alcohol production facility for which an exemption certificate is held

1 ceases to be used for the primary purpose of alcohol production for fuel use or is  
 2 used for a different purpose other than that for which the exemption certificate was  
 3 granted, the holder of the certificate shall give written notice by certified mail of the  
 4 change to the Department for Energy Development and Independence~~[Office of~~  
 5 ~~Energy Policy]~~ and to the Department of Revenue.

- 6 (9) The alcohol production facility exemption certificate, upon approval, shall exempt  
 7 said facilities from taxes outlined in the provisions of KRS 247.910 and this section  
 8 and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate  
 9 shall remain in force for a period of eight (8) years from the date of issuance and at  
 10 the end of said period shall lapse. Any alcohol production facility previously  
 11 exempted under the terms of KRS 247.910 and this section shall not be eligible for  
 12 recertification upon completion of the eight (8) year certificate period.

13 ➔Section 602. KRS 250.482 is amended to read as follows:

14 As used in KRS 250.483 to 250.488:

- 15 (1) "Department"~~["Office"]~~ means the Department~~[Office]~~ of Insurance;  
 16 (2) "Division" means the Division of Fire Prevention in the Department~~[Office]~~ of  
 17 Housing, Buildings and Construction.  
 18 (3) "Anhydrous ammonia" refers to the compound formed by the combination of the  
 19 two (2) gaseous elements, nitrogen and hydrogen, in the proportion of one (1) part  
 20 nitrogen to three (3) parts of hydrogen by volume. Anhydrous ammonia is ammonia  
 21 gas in compressed or liquefied form, and is not aqueous ammonia.  
 22 (4) "Approved container" means a container for anhydrous ammonia which meets or  
 23 exceeds the requirements of the Federal law or regulation for the storage and  
 24 handling of anhydrous ammonia.

25 ➔Section 603. KRS 250.483 is amended to read as follows:

26 The Division of Fire Prevention in the Department~~[Office]~~ of Housing, Buildings and  
 27 Construction shall make, promulgate, and enforce administrative regulations setting forth

1 minimum general standards covering the design, construction, location, installation, and  
 2 operation of equipment for storing, handling, transporting by tank truck, tank trailer, and  
 3 utilizing anhydrous ammonia. The administrative regulations shall be such as are  
 4 reasonably necessary for the protection and safety of the public and persons using such  
 5 materials, and shall be in substantial conformity with the generally-accepted standards of  
 6 safety concerning the same subject matter. Administrative regulations in substantial  
 7 conformity with the published standards of the Fertilizer Institute and the Compressed  
 8 Gas Association for the design, installation, and construction of containers and equipment  
 9 for the storage and handling of anhydrous ammonia shall be deemed to be in substantial  
 10 conformity with the generally-accepted standards of safety concerning the same subject  
 11 matter.

12 ➔ Section 604. KRS 262.906 is amended to read as follows:

13 (1) There is hereby created the Purchase of Agricultural Conservation Easement  
 14 Corporation which shall oversee all issues involving purchases of agricultural  
 15 conservation easements. The corporation shall be a de jure municipal corporation  
 16 and political subdivision of the Commonwealth. The corporation shall be a public  
 17 agency within the meaning of KRS 61.805 and 61.870 and shall be attached for  
 18 administrative purposes to the Department of Agriculture.

19 (2) (a) The corporation shall be governed by a board of directors, consisting of the  
 20 following eleven (11) members: four (4) public directors who shall be the  
 21 Commissioner of the Department of Agriculture, the secretary of the Energy  
 22 and Environment~~[Environmental and Public Protection]~~ Cabinet, the dean of  
 23 the University of Kentucky College of Agriculture, and the chair of the Soil  
 24 and Water Conservation Commission, or their designees; and seven (7)  
 25 private directors who shall be appointed by the Governor, as follows:

26 1. One (1) private director from each of the six (6) congressional districts;  
 27 and

1           2.    One (1) private director from a list of three (3) persons suggested by the  
2                   Kentucky Farm Bureau Federation, Inc.

3           (b)   Initial appointment of the private directors by the Governor shall be for  
4                   staggered terms.

5           (c)   No more than four (4) of the private directors shall be from the same political  
6                   party. Members shall serve a term of four (4) years, with the exception of the  
7                   initial members, and may be reappointed. Vacancies shall be filled in the same  
8                   manner as the appointment is made.

9    (3)   (a)   Any member who has an ownership interest in any of the lands eligible for the  
10               purchase of an agricultural conservation easement or other property interest  
11               and who wishes to apply to sell an easement while serving on the board of  
12               directors shall withdraw himself from all board activities prior to application  
13               and until the transaction is complete. The Governor shall appoint an interim  
14               member to fill the vacancy until the transaction is complete.

15       (b)   Any person who has previously applied for or sold an agricultural  
16               conservation easement may serve on the board.

17    (4)   Members shall not be compensated for their services but shall be reimbursed for  
18               expenses incurred in the performance of their duties.

19       ➔Section 605. KRS 278.702 is amended to read as follows:

20    (1)   There is hereby established the Kentucky State Board on Electric Generation and  
21               Transmission Siting. The board shall be composed of seven (7) members as  
22               follows:

23       (a)   The three (3) members of the Kentucky Public Service Commission;

24       (b)   The secretary of the Energy and Environment~~Environmental and Public~~  
25               Protection} Cabinet or the secretary's designee;

26       (c)   The secretary of the Cabinet for Economic Development or the secretary's  
27               designee;

1 (d) 1. If the facility subject to board approval is proposed to be located in one  
2 (1) county, two (2) ad hoc public members to be appointed by the  
3 Governor from a county where a facility subject to board approval is  
4 proposed to be located:

5 a. One (1) of the ad hoc public members shall be the chairman of the  
6 planning commission with jurisdiction over an area in which a  
7 facility subject to board approval is proposed to be located. If the  
8 proposed location is not within a jurisdiction with a planning  
9 commission, then the Governor shall appoint either the county  
10 judge/executive of a county that contains the proposed location of  
11 the facility or the mayor of a city, if the facility is proposed to be  
12 within a city; and

13 b. One (1) of the ad hoc public members shall be appointed by the  
14 Governor and shall be a resident of the county in which the facility  
15 is proposed to be located.

16 2. If the facility subject to board approval is proposed to be located in more  
17 than one (1) county, two (2) ad hoc public members to be chosen as  
18 follows:

19 a. One (1) ad hoc public member shall be the county judge/executive  
20 of a county in which the facility is proposed to be located, to be  
21 chosen by majority vote of the county judge/executives of the  
22 counties in which the facility is proposed to be located; and

23 b. One (1) ad hoc public member shall be a resident of a county in  
24 which the facility is proposed to be located, and shall be appointed  
25 by the Governor.

26 If a member has not been chosen by majority vote, as provided in  
27 subdivision a. of this subparagraph, by thirty (30) days after the filing of



1 the application, the Governor shall directly appoint the member.

2 3. Ad hoc public members appointed to the board shall have no direct  
3 financial interest in the facility proposed to be constructed.

4 (2) The term of service for the ad hoc members of the board shall continue until the  
5 board issues a final determination in the proceeding for which they were appointed.  
6 The remaining members of the board shall be permanent members.

7 (3) The board shall be attached to the Public Service Commission for administrative  
8 purposes. The commission staff shall serve as permanent administrative staff for the  
9 board. The members of the board identified in subsection (1)(a) to (d) of this section  
10 shall promulgate administrative regulations in accordance with KRS Chapter 13A to  
11 implement KRS 278.700 to 278.716.

12 (4) No member of the board shall receive any salary or fee for service on the board or  
13 shall have any financial interest in any facility the application for which comes  
14 before the board, but each member shall be reimbursed for actual travel and  
15 expenses directly related to service on the board.

16 (5) The chairman of the Public Service Commission shall be the chairman of the board.  
17 The chairman shall designate one (1) member of the board as vice chairman. A  
18 majority of the members of the board shall constitute a quorum for the transaction  
19 of business. No vacancy on the board shall impair the right of the remaining  
20 members to exercise all of the powers of the board. The board shall convene upon  
21 the call of the chairman.

22 ➔Section 606. KRS 278.704 is amended to read as follows:

23 (1) No person shall commence to construct a merchant electric generating facility until  
24 that person has applied for and obtained a construction certificate for the facility  
25 from the board. The construction certificate shall be valid for a period of two (2)  
26 years after the issuance date of the last permit required to be obtained from the  
27 Energy and Environment~~Environmental and Public Protection~~ Cabinet after

1 which the certificate shall be void. The certificate shall be conditioned upon the  
2 applicant obtaining necessary air, water, and waste permits. If an applicant has not  
3 obtained all necessary permits and has not commenced to construct prior to the  
4 expiration date of the certificate, the applicant shall be required to obtain a valid  
5 certificate from the board.

6 (2) Except as provided in subsections (3), (4), and (5) of this section, no person shall  
7 commence to construct a merchant electric generating facility unless the exhaust  
8 stack of the proposed facility is at least one thousand (1,000) feet from the property  
9 boundary of any adjoining property owner and two thousand (2,000) feet from any  
10 residential neighborhood, school, hospital, or nursing home facility.

11 (3) If the merchant electric generating facility is proposed to be located in a county or a  
12 municipality with planning and zoning, then setback requirements from a residential  
13 neighborhood, school, hospital, or nursing home facility may be established by the  
14 planning and zoning commission. Any setback established by a planning and zoning  
15 commission for a facility in an area over which it has jurisdiction shall:

16 (a) Have primacy over the setback requirement in subsections (2) and (5) of this  
17 section; and

18 (b) Not be subject to modification or waiver by the board through a request for  
19 deviation by the applicant, as provided in subsection (4) of this section.

20 (4) The board may grant a deviation from the requirements of subsection (2) of this  
21 section on a finding that the proposed facility is designed and located to meet the  
22 goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.216, 278.218, and  
23 278.700 to 278.716 at a distance closer than those provided in subsection (2) of this  
24 section.

25 (5) If the merchant electric generating facility is proposed to be located on a site of a  
26 former coal processing plant in the Commonwealth where the electric generating  
27 facility will utilize on-site waste coal as a fuel source, then the one thousand (1,000)

1 foot property boundary requirement in subsection (2) of this section shall not be  
 2 applicable; however, the applicant shall be required to meet any other setback  
 3 requirements contained in subsection (2) of this section.

4 ➔Section 607. KRS 286.01-011 is amended to read as follows:

5 (1) There is created within the~~[Department of Public Protection in the Environmental~~  
 6 ~~and] Public Protection Cabinet~~ a Department~~[an Office]~~ of Financial Institutions,  
 7 which shall be headed by a commissioner~~[an executive director]~~ of financial  
 8 institutions, who shall be the executive head of the department~~[office]~~ and shall be  
 9 charged with the administration of the department~~[office]~~.

10 (2) The Department~~[Office]~~ of Financial Institutions shall exercise all administrative  
 11 functions of the state in relation to the regulation, supervision, chartering and  
 12 licensing of banks, trust companies, savings and loan associations, consumer loan  
 13 companies, investment and industrial loan companies, and credit unions, and in  
 14 relation to the regulation of securities.

15 (3) There are~~[is]~~ established within the Department~~[Office]~~ of Financial Institutions  
 16 the following divisions:

17 (a) The Division of Depository~~[Financial]~~ Institutions, which shall be headed by a  
 18 director appointed by the secretary of the~~[Environmental and] Public~~  
 19 ~~Protection Cabinet~~~~[, subject to prior written approval of the Governor]~~ in  
 20 accordance with KRS 12.050. The division shall consist of entities deemed  
 21 appropriate by the~~[executive]~~ director;

22 (b) The Division of Non-Depository Institutions~~[Securities]~~, which shall be  
 23 headed by a director appointed by the secretary of the~~[Environmental and]~~  
 24 ~~Public Protection Cabinet~~ in accordance with KRS 12.050. The division shall  
 25 consist of entities deemed appropriate by the~~[executive]~~ director; and

26 (c) The Division of Securities~~[Administrative Services]~~, which shall be headed  
 27 by a director appointed by the secretary of the Public Protection

1           ~~Cabinet~~~~[executive director]~~ in accordance with KRS 12.050. The division  
 2           shall consist~~[be composed]~~ of ~~[organizational]~~ entities deemed appropriate by  
 3           the~~[executive]~~ director.

4   (4) The department~~[office]~~ may accept any application or other document required to  
 5           be filed with the department~~[office]~~ in electronic format or in any other technology  
 6           acceptable to the department~~[office]~~.

7           ➔Section 608. KRS 286.01-012 is amended to read as follows:

8   The ~~[secretary of the Environmental and Public Protection Cabinet, with the approval of~~  
 9   ~~the]~~ Governor, in accordance with KRS 12.040~~[12.050]~~, shall appoint as  
 10   commissioner~~[executive director]~~ of financial institutions a person knowledgeable in  
 11   banking with not less than three (3) years' banking experience. For this purpose, "banking  
 12   experience" means service as an executive officer in a bank with its principal office  
 13   located in Kentucky or service in a supervisory capacity in a state or federal agency  
 14   having regulatory authority over banks or other financial institutions.

15          ➔Section 609. KRS 286.01-013 is amended to read as follows:

16   (1) There is created a Financial Institutions Board. The board shall consist of twelve  
 17           (12) members appointed by the Governor who shall serve terms of four (4) years,  
 18           except the initial terms shall be established as hereafter provided. It is  
 19           recommended that the board appointments made by the Governor be selected from  
 20           the following:

21           (a) Three (3) members selected from the banking industry regulated by the  
 22               department~~[office]~~ with appropriate recognition as to bank size and  
 23               geographic diversity;

24           (b) Three (3) members selected from the broker/dealer securities industry  
 25               regulated by the department~~[office]~~;

26           (c) One (1) member selected from the credit union industry regulated by the  
 27               department~~[office]~~;

- 1 (d) One (1) member selected from the consumer finance or industrial loan  
2 industry regulated by the department~~[office]~~;
- 3 (e) Three (3) members selected from the public at large who are knowledgeable  
4 concerning financial institutions, the legislative process and consumer  
5 interests, two (2) of whom are not employees, officers, or directors of any  
6 financial institution; and
- 7 (f) The commissioner~~[executive director]~~, who shall also serve as chairman of  
8 the board.
- 9 (2) All members of the board from the banking industry, securities industry, credit  
10 union industry, consumer finance, or industrial loan industry shall be persons with  
11 practical experience in the industry so represented and currently serving at the  
12 executive level of that industry at the time of their appointment.
- 13 (3) At the first meeting of the board, a drawing by lot shall be conducted to determine  
14 the length of each original member's term. Initially, there shall be four (4) four (4)  
15 year terms, five (5) three (3) year terms, and two (2) two (2) year terms. Vacancies  
16 in the membership of the board shall be filled in the same manner as original  
17 appointments. Appointments to fill vacancies occurring before the expiration of a  
18 term shall be for the remainder of the unexpired term.
- 19 (4) No member of the board, other than the commissioner~~[executive director]~~, shall  
20 serve more than two (2) consecutive terms on the board.
- 21 (5) The board shall first meet at the call of the Governor and thereafter as the chairman  
22 shall determine at a time and place determined by the chairman. The board may  
23 elect other officers for the conduct of its business. A majority of board members  
24 shall constitute a quorum, and a decision shall require the majority vote of those  
25 present. Each board member shall have one (1) vote, and voting by proxy shall be  
26 prohibited.
- 27 (6) Board members shall receive one hundred dollars (\$100) per diem for each board

meeting which they attend and shall be reimbursed for other reasonable and necessary expenses incurred while engaged in carrying out the duties of the board.

(7) The board shall:

(a) Prepare and submit at the Governor's request a list of candidates qualified to serve as commissioner~~[executive director]~~ and recommend to the Governor a proposed salary for each nomination for commissioner~~[executive director]~~;

(b) Recommend to the Governor a proposed salary structure for other department~~[office]~~ staff in order to provide competitive salaries for recruitment and retention of staff;

(c) Receive and comment on various reports relating to the department~~[office]~~ and its activities as submitted to the board by the commissioner~~[executive director]~~ or the Governor; and

(d) Review, consider and make recommendations to the commissioner~~[executive director]~~ on any matters referred to the board by the commissioner~~[executive director]~~ or the Governor.

(8) In no event shall the board or its members interfere with the statutory duties of the commissioner~~[executive director]~~ whose decisions shall be governed by law.

➔Section 610. KRS 286.01-020 is amended to read as follows:

(1) The commissioner~~[executive director]~~ may promulgate, amend, and repeal any administrative regulations, forms, and orders as are necessary to interpret and carry out the provisions and intent of this chapter. The commissioner~~[He]~~ shall devise a seal for the~~[his]~~ department, a description of which, together with an impression thereof and a certificate of approval by the Governor, shall be filed in the office of the Secretary of State. The seal shall be renewed whenever necessary.

(2) The commissioner~~[executive director]~~ of financial institutions and his or her deputies shall be allowed their necessary traveling and other expenses of conducting their office.

1 (3) The commissioner~~[executive director]~~ of financial institutions may issue a finding  
 2 of permissible activities, services, or products to authorize banks to engage in any  
 3 banking activity in which the banks could engage were they operating as national  
 4 banks at the time the authority is granted. Any finding shall be specifically limited  
 5 to the activity, service, or products contained therein and shall be mailed to all  
 6 banks. This section shall not apply to activities prohibited under Subtitle 9 of KRS  
 7 Chapter 304.

8 (4) Nothing herein contained shall be construed to repeal, modify, or alter the  
 9 restrictions of KRS 286.3-105 relative to the leasing of motor vehicles, or of KRS  
 10 286.3-180 relative to the establishment of branches.

11 (5) The commissioner~~[executive director]~~ may designate the deputy  
 12 commissioner~~[director]~~, division directors, general counsel, or branch managers to  
 13 sign documents under his or her instructions.

14 ➔Section 611. KRS 286.01-025 is amended to read as follows:

15 The secretary of the ~~[Environmental and]~~Public Protection Cabinet may appoint a deputy  
 16 commissioner~~[director]~~ of financial institutions with the prior written approval of the  
 17 Governor. The deputy commissioner~~[director]~~ shall, during the absence or inability of the  
 18 commissioner~~[executive director]~~ or under his or her instructions, or in the event of a  
 19 vacancy in the office of the commissioner~~[executive director]~~ and until the vacancy is  
 20 filled, be vested with all the powers and perform all the duties of the  
 21 commissioner~~[executive director]~~.

22 ➔Section 612. KRS 286.01-440 is amended to read as follows:

23 (1) The commissioner~~[executive director]~~ shall appoint a sufficient number of  
 24 examiners and assistant examiners to examine all institutions coming under the  
 25 supervision of the department~~[office]~~. A salary schedule for examiners and  
 26 assistant examiners shall be prepared by the commissioner~~[executive director]~~ and  
 27 presented to the secretary of the Finance and Administration Cabinet for approval.

1 In the event an advisory state banking board is established by law, the appointment  
 2 and compensation of examiners and assistant examiners shall be with the advice of  
 3 such board.

4 (2) The commissioner~~[executive director]~~, the deputy commissioner~~[director]~~, and  
 5 each examiner shall take the constitutional oath of office.

6 (3) Neither the commissioner~~[executive director]~~, nor the deputy  
 7 commissioner~~[director]~~, nor any examiner or assistant examiner shall be indebted  
 8 directly or indirectly either as borrower, indorser, surety, or guarantor, to any bank  
 9 or trust company under his supervision or subject to his examination, nor shall he or  
 10 she be a director, officer or employee in such bank or trust company, nor engage or  
 11 become interested in the sale of securities as a business or in the negotiation of  
 12 loans for others.

13 (4) No person shall be assigned to examine the affairs of any bank or trust company in a  
 14 county in which he holds stock in either a state or national bank or trust company.

15 (5) The commissioner~~[executive director]~~ may enter into contracts with any bank  
 16 supervisory agency that has concurrent jurisdiction over a state bank or the branch  
 17 of an out-of-state state bank operating in this state to engage the services of the  
 18 agency's examiners at a reasonable rate of compensation, or to provide the services  
 19 of the commissioner's~~[executive director's]~~ examiners to the agency at a reasonable  
 20 rate of compensation. Any contract entered into pursuant to this subsection shall be  
 21 deemed a sole source contract under the provisions of KRS 45A.095.

22 ➔Section 613. KRS 286.01-485 is amended to read as follows:

23 All fees collected and paid into the State Treasury under the provisions of KRS Chapters  
 24 292 and 366 and of Subtitles 1, 2, 3, 4, 5, 6, 7, and 8 of KRS Chapter 286, or any industry  
 25 regulated by the department~~[office]~~ shall be credited to a revolving trust or agency fund  
 26 account, as provided in KRS 45.253, for the Department~~[Office]~~ of Financial Institutions  
 27 and shall be separately accounted for and shall be used solely for the administration and



1 enforcement of said KRS chapters.

2 ➔Section 614. KRS 286.2-015 is amended to read as follows:

3 (1) All political subdivisions of the Commonwealth shall be prohibited from enacting  
4 and from enforcing ordinances, resolutions, and regulations pertaining to the  
5 financial or lending activities of persons or entities which:

6 (a) Are subject to the jurisdiction of the department~~[office]~~ or the provisions of  
7 this chapter;

8 (b) Are subject to the jurisdiction or regulatory supervision of the Board of  
9 Governors of the Federal Reserve System, the Office of the Comptroller of the  
10 Currency, the Office of Thrift Supervision, the National Credit Union  
11 Administration, the Farm Credit Administration, the Federal Deposit  
12 Insurance Corporation, or the United States Department of Housing and Urban  
13 Development; or

14 (c) Originate, purchase, sell, assign, securitize, assist, facilitate, or service  
15 property interests or obligations created by financial transactions or loans  
16 made, executed, or originated by persons or entities referred to in paragraph  
17 (a) or (b) of this subsection.

18 (2) The requirements of this section shall apply to all ordinances, resolutions, or  
19 regulations pertaining to lending activities, including any ordinances, resolutions, or  
20 regulations which limit or disqualify persons or entities from doing business with a  
21 political subdivision based upon financial or lending activities or the imposition of  
22 additional reporting requirements or other obligations on such persons or entities  
23 seeking to do business with a political subdivision.

24 (3) Any provision of this chapter preempted by federal law with respect to a national  
25 bank or federal savings association shall not apply to the same extent to an  
26 operating subsidiary of a national bank or federal savings association.

27 (4) The provisions of this chapter shall be interpreted and applied to the fullest extent

1 practicable in a manner consistent with applicable federal laws and regulations and  
 2 with applicable policies and orders of federal regulatory agencies and shall not be  
 3 deemed to constitute an attempt to override federal law.

4 (5) Nothing in this section shall be interpreted as preventing the enforcement of  
 5 ordinances, regulations, or resolutions of political subdivisions of the  
 6 Commonwealth pertaining to civil rights.

7 ➔Section 615. KRS 286.2-990 is amended to read as follows:

8 Unless otherwise specifically provided for in this subtitle, the commissioner~~[executive~~  
 9 ~~director]~~ may levy a civil penalty against any person who violates any provision of this  
 10 subtitle, any administrative regulation promulgated under this subtitle, or any order issued  
 11 by the commissioner~~[executive director]~~ under this subtitle. The civil penalty shall be not  
 12 less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) per  
 13 violation, plus the state's costs and expenses for the examination, investigation, and  
 14 prosecution of the matter, including reasonable attorney's fees and court costs.

15 ➔Section 616. KRS 286.3-010 is amended to read as follows:

16 As used in this subtitle, unless the context requires otherwise:

- 17 (1) "Bank or state bank" means any bank which is now or may hereafter be organized  
 18 under the laws of this state or a combined bank and trust company;
- 19 (2) "National bank" or "national bank association" means a bank created by Congress  
 20 and organized pursuant to the provisions of federal law, including savings and loan  
 21 associations;
- 22 (3) "Out-of-state bank" means a bank chartered under the laws of any state other than  
 23 Kentucky;
- 24 (4) "Home state" means:
  - 25 (a) With respect to a state bank or out-of-state state bank, the state by which the  
 26 bank is chartered; and
  - 27 (b) With respect to a national bank, the state in which the main office of the bank

1 is located;

2 (5) "Home state regulator" means, with respect to an out-of-state state bank, the bank  
3 supervisory agency of the state in which such bank is chartered;

4 (6) "Host state" means a state, other than the home state, in which the bank maintains,  
5 or seeks to establish and maintain, a branch;

6 (7) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~  
7 of financial institutions;

8 (8) "Department~~[Office]~~" means the Department~~[Office]~~ of Financial Institutions;

9 (9) "Population" means the population as indicated by the latest regular United States  
10 census;

11 (10) "Trust company" includes every corporation authorized by this subtitle to do a trust  
12 business;

13 (11) "Undivided profits" means the composite of the bank's net retained earnings from  
14 current and prior years' operations;

15 (12) "Capital stock" shall mean, at any particular time, the sum of:

16 (a) The par value of all shares of the corporation having a par value that have  
17 been issued;

18 (b) The amount of the consideration received by the corporation for all shares of  
19 the corporation that have been issued without par value except such part of the  
20 consideration as has been allocated to surplus in a manner permitted by law;  
21 and

22 (c) Such amounts not included in paragraphs (a) and (b) of this subsection as have  
23 been transferred to stated capital of the corporation, whether through the  
24 issuance of stock dividends, resolution of the bank's board of directors under  
25 applicable corporate law or otherwise by law;

26 (13) "Surplus" means the amount of consideration received by the corporation for all  
27 shares issued without par value that has not been allocated to capital stock or the

1 amount of consideration received by the corporation in excess of par value for all  
2 shares with a par value, or both;

3 (14) "Municipality" means a county, city, or urban-county government;

4 (15) "Political subdivision" means a municipality, school district, or other municipal  
5 authority;

6 (16) "Corporation" means either a for-profit corporation or limited liability company;

7 (17) "Share" means the shares of stock or the unit of equity into which the proprietary  
8 interests in a corporation are divided;

9 (18) "Stock" means the corporation's shares;

10 (19) "Stockholder" or "shareholder" means an owner of the corporation's shares;

11 (20) "Board of directors" means the governing body of a corporation elected or  
12 otherwise chosen by the shareholders, including the managers of a limited liability  
13 company;

14 (21) "Director" means a member of the board of directors;

15 (22) "Articles of incorporation" means the organizing documents of a corporation filed  
16 with the Secretary of State in accordance with KRS Chapter 271B or 275; and

17 (23) "Dividends" means a distribution of money, stock, or other property to shareholders  
18 of a corporation.

19 ➔Section 617. KRS 286.3-050 is amended to read as follows:

20 (1) Before filing the articles of incorporation of any financial institution mentioned in  
21 KRS 286.3-040, the organizers shall present a copy of their proposed articles to the  
22 commissioner~~executive director~~ who shall investigate the financial standing,  
23 moral character, and capability of each of the organizers and proposed executive  
24 officers and directors, if known, and determine whether there is reasonable  
25 assurance of sufficient volume of business for the proposed corporation to be  
26 successful, and whether the public convenience and advantage will be promoted by  
27 the opening of the proposed corporation.

1 (2) In the event that the institution for which a charter is sought is to be created solely  
 2 for the purpose of effectuating a merger or consolidation to facilitate the formation  
 3 of a bank holding company, the commissioner~~[executive director]~~ may waive all or  
 4 any part of the requirements of this subtitle.

5 (3) If the commissioner~~[executive director]~~ determines that it is expedient and  
 6 desirable to permit the proposed corporation to engage in business, the  
 7 commissioner~~[he]~~ shall approve the articles of incorporation in writing, and the  
 8 articles then may be filed and recorded as provided in the general corporation or  
 9 limited liability company law.

10 (4) All amendments to the articles of incorporation of any financial institution  
 11 mentioned in KRS 286.3-040 shall be approved by the commissioner~~[executive~~  
 12 ~~director]~~ before filing with the Secretary of State.

13 ➔Section 618. KRS 286.3-060 is amended to read as follows:

14 (1) Before any financial institution mentioned in KRS 286.3-040 may transact any  
 15 banking or trust business, it shall file a written oath with the  
 16 commissioner~~[executive director]~~. The oath shall be taken by each director of the  
 17 institution, and shall state in substance:

18 (a) That such director is a citizen of the United States, and the State of Kentucky,  
 19 or, if not, the place of his residence;

20 (b) That he will faithfully discharge the duties of his office and administer the  
 21 affairs of the institution, so far as the duties of his office require;

22 (c) That he will uphold the laws of the state, and particularly the banking and  
 23 trust laws.

24 (2) The oath shall be taken before any officer authorized to administer oaths, and shall  
 25 be taken upon the election of any subsequent director or reelection of any director.  
 26 The oath shall be maintained by the bank and be subject to review at examinations.

27 (3) The commissioner~~[executive director]~~ shall issue to the institution a certificate

entitling it to transact the business for which it was organized after the following requirements have been met:

- (a) The oath mentioned in subsections (1) and (2) of this section has been filed; and
- (b) The commissioner~~[executive-director]~~ has received satisfactory proof that the accounts of the banking institution's depositors will be insured by the Federal Deposit Insurance Corporation; and
- (c) The commissioner~~[executive-director]~~ has received satisfactory proof that the institution has subscribed and paid in the required capital and has otherwise fully complied with all pertinent laws and regulations; and
- (d) A period of thirty (30) days has elapsed since the rendition by the commissioner~~[executive-director]~~ of a final order, as defined in KRS 13B.010, and an appeal to the appropriate court has not been taken from such order.
- (e) If an appeal from a final order of the commissioner~~[executive-director]~~ has been timely filed, no certificate shall be issued until all the requirements of paragraphs (a) to (c) of this subsection have been met and until:
  - 1. The appeal has been finally disposed of by the last possible court of review, including the United States Supreme Court; or
  - 2. All further opportunities for appeal have expired as a result of the failure to timely file an appeal.

→Section 619. KRS 286.3-070 is amended to read as follows:

The minimum capital stock of any bank or trust company organized after May 30, 1938 shall be two million five hundred thousand dollars (\$2,500,000). Additional capital may be required depending upon an investigation of the application, at the discretion of the commissioner~~[executive-director]~~.

→Section 620. KRS 286.3-090 is amended to read as follows:

No reduction in the capital stock of a bank or trust company shall be made to an amount less than is required for organization, nor shall any reduction be valid until it has been approved by the commissioner~~[executive-director]~~ upon his finding that the interest of creditors of the bank or trust company will not be prejudiced thereby.

→ Section 621. KRS 286.3-095 is amended to read as follows:

(1) At least sixty (60) days prior to a change occurring in the outstanding voting stock of any bank or trust company which will result in control or in a change in the control of the bank or trust company, the proposed acquiring party or parties shall report such facts to the commissioner~~[executive-director]~~ for approval unless the commissioner~~[executive-director]~~ finds that:

(a) The terms of the acquisition are not in accordance with the laws of this state;  
or

(b) The financial condition, or the competence, experience, and integrity of the acquiring party or parties are such as will jeopardize the financial stability of the bank; or

(c) The public convenience and advantage will not be served by the acquisition.

(2) As used in subsection (1) of this section, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank or trust company. A change in ownership of voting stock which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than twenty-five percent (25%) of the outstanding voting stock shall not be considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the commissioner~~[executive-director]~~.

(3) Whenever a bank makes a loan or loans, secured, or to be secured, by twenty-five percent (25%) or more of the outstanding voting stock of a bank, the president or

1 other chief executive officer of the lending bank shall promptly report such fact to  
 2 the commissioner~~[executive-director]~~ upon obtaining knowledge of such loan or  
 3 loans, except that no report need be made in those cases where the borrower has  
 4 been the owner of record of the stock for a period of one (1) year or more, or the  
 5 stock is that of a newly organized bank prior to its opening.

6 (4) The reports required by subsections (1), (2), and (3) of this section shall contain the  
 7 following information to the extent that it is known by the person making the report:

8 (a) The number of shares involved;

9 (b) The names of the sellers (or transferors);

10 (c) The names of the purchasers (or transferees);

11 (d) The names of the beneficial owners if the shares are registered in another  
 12 name;

13 (e) The purchase price;

14 (f) The total number of shares owned by the seller (or transferors), the purchasers  
 15 (or transferees) and the beneficial owners both immediately before and after  
 16 the transaction; and in the case of a loan:

17 1. The name of the borrower;

18 2. The amount of the loan; and

19 3. The name of the bank issuing the stock securing the loan and the number  
 20 of shares securing the loan.

21 In addition to the foregoing, such reports shall contain such other information as  
 22 may be available to inform the commissioner~~[executive-director]~~ of the effect of the  
 23 transaction upon control of the bank or trust company whose stock is involved.

24 (5) Whenever such a change as described in subsection (1) of this section occurs, each  
 25 bank or trust company shall report promptly to the commissioner~~[executive~~  
 26 ~~director]~~ any changes or replacement of its chief executive officer or of any director  
 27 occurring in the next twelve (12) month period, including in its report a statement of



1 the past and current business and professional affiliations of the new chief executive  
2 officer or directors.

3 ➔Section 622. KRS 286.3-100 is amended to read as follows:

4 A bank may:

5 (1) Hold personal property that has been transferred to it as collateral for the payment  
6 of any debt;

7 (2) Acquire and hold title to real estate, provided:

8 (a) The real estate is necessary or appropriate for the transaction of legitimate  
9 business; and

10 (b) The cost of the real estate, including furniture and fixtures, shall not exceed  
11 forty percent (40%) of the total paid-in capital, unimpaired surplus and  
12 undivided profits (determined on accrual basis). The investment may exceed  
13 the bank's forty percent (40%) limit with prior written approval of the  
14 commissioner~~executive director~~;

15 (3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in  
16 satisfaction of debts previously contracted in the course of its business, or that it  
17 may purchase under a judgment in its favor. A bank acquiring real estate in  
18 satisfaction of debts previously contracted in the course of business shall write  
19 down the acquisition at ten percent (10%) per year;

20 (4) Invest in the bonds of any federal home loan bank;

21 (5) Invest in obligations issued separately or collectively by or for federal land banks,  
22 federal intermediate credit banks and banks for cooperatives under the Act of  
23 Congress known as the Farm Credit Act of 1971, 85 Stat. 583, 12 U.S.C. sec. 2001  
24 and amendments thereto;

25 (6) Invest, subject to the approval of the commissioner~~executive director~~, in the  
26 capital stock or bonds or both of any domestic realty corporation organized or  
27 existing for the sole purpose of acquiring and holding title to real property used by

1 the bank, through lease or otherwise, for the transaction of the bank's legitimate  
2 business;

3 (7) Purchase, hold, and convey the shares of any open end registered investment  
4 company registered under the Investment Company Act of 1940, or a series of the  
5 company, whose shares are registered under the Securities Act of 1933 and whose  
6 investments are limited to:

7 (a) Bonds or other interest-bearing obligations of the United States, or those for  
8 the payment of the principal and interest on which the faith and credit of the  
9 United States is pledged;

10 (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations  
11 issued or guaranteed as to the payment of principal and interest or dividend by  
12 any instrumentality presently or hereafter incorporated by authority of an Act  
13 of Congress;

14 (c) General obligation bonds or revenue bonds issued and guaranteed as to  
15 payment of principal and interest by any state, county, or municipal  
16 governments legally authorized to issue these instruments of indebtedness;

17 (d) Any other obligations in which national banking associations organized under  
18 the laws of the United States are permitted to invest in directly;

19 (8) Purchase and hold shares of a bank service corporation as that term is used in the  
20 Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

21 (9) Invest in:

22 (a) Bonds or other interest-bearing obligations of the United States, or those for  
23 the payment of the principal and interest on which the faith and credit of the  
24 United States is pledged;

25 (b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations  
26 issued or guaranteed as to the payment of principal and interest or dividend by  
27 any instrumentality presently or hereafter incorporated by authority of an Act

1 of Congress;

2 (c) General obligation bonds or revenue bonds issued and guaranteed as to  
3 payment of principal and interest by any state, county, or municipal  
4 governments legally authorized to issue such instruments of indebtedness;

5 (10) (a) Invest in other real estate in the bank's generally accepted banking market. For  
6 purposes of this section, "the bank's generally accepted banking market"  
7 means the geographic banking market at the time the investment is made as  
8 defined by the Federal Reserve Bank in the Federal Reserve District in which  
9 the bank is located. The investment shall not exceed ten percent (10%) of the  
10 bank's actual paid-in capital and surplus, calculated at the time the investment  
11 is made, for each real estate investment; and

12 (b) Investment in other real estate not to exceed ten percent (10%) of the bank's  
13 actual paid-in capital and surplus, calculated at the time the investment is  
14 made, for each real estate investment, if the bank has acquired the real estate  
15 in satisfaction of a debt previously contracted and the investment is for the  
16 purpose of improving the real estate for sale. Any real estate acquired in  
17 satisfaction of a debt previously contracted and improved by the bank shall be  
18 disposed of within five (5) years of the date of acquisition, with the  
19 commissioner~~executive director~~ authorized to extend the disposition upon  
20 written request of the bank for good cause shown on a year-to-year basis not  
21 exceeding an additional five (5) years;

22 (11) Own or operate a discount brokerage service either through the bank or a bona fide  
23 subsidiary of the bank;

24 (12) Own or operate a travel agency either through the bank or a bona fide subsidiary of  
25 the bank;

26 (13) Invest, with the prior approval of the commissioner~~executive director~~, in the  
27 capital stock or bonds of a trust company; and

(14) Own or operate a courier service, either through the bank or a bona fide subsidiary of the bank, in any county where the bank has its principal office or a branch.

Investments in accordance with subsections (7) and (9) of this section are subject to KRS 286.3-280 and 286.3-290. For purposes of computing the maximum investment of a bank in bonds, notes, and other investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

→ Section 623. KRS 286.3-102 is amended to read as follows:

(1) As used in this section, a CAMEL rating means a system of rating used by examiners of financial institutions to rate the institutions in five (5) categories: capital adequacy, asset quality, management effectiveness, quantity and quality of earnings, and liquidity.

(2) In addition to all other banking activities permitted by this subtitle, a state bank receiving a CAMEL rating of 1 or 2 at its most recent state or federal bank regulatory examination may engage in any banking activity in which the bank could engage and is exempted from any statutes or administrative regulations which would be preempted if:

(a) It was operating as a national bank in Kentucky;

(b) It was operating as a state bank, state thrift, or state savings bank in any state;  
or

(c) It meets the qualified thrift lender test as determined by the Office of Thrift Supervision or its successor, or was operating as a federally chartered thrift or federal savings bank in any state.

(3) Before a state bank may engage in any of the banking activities permitted by subsection (2) of this section, the state bank shall obtain a legal opinion specifying the statutory or regulatory provisions that permit the activity in which the state bank intends to engage and the conditions under which such activity is allowed. This legal opinion shall be maintained by the bank and provided to the

1 department~~office~~ upon request.

2 (4) This section shall not apply to exempt any laws which regulate Kentucky state  
3 banks pertaining to deferred deposit transactions in Subtitle 9 of this chapter, title  
4 pledge lending in Subtitle 10 of this chapter, visitorial or examination powers, and  
5 interest rates.

6 ➔Section 624. KRS 286.3-115 is amended to read as follows:

7 (1) With the approval of the commissioner~~executive director~~ a bank or trust company  
8 may, at any time, by resolution of its board of directors, which resolution shall have  
9 been approved at a stockholders' meeting by two-thirds (2/3) of the outstanding  
10 capital stock of the bank, issue and sell its capital notes or debentures in an amount  
11 not in excess of one hundred percent (100%) of its unimpaired paid-in capital stock  
12 plus fifty percent (50%) of its unimpaired surplus. The aggregate amount of such  
13 capital notes or debentures issued or sold by a bank or trust company shall be  
14 exempt from the limitations and restrictions on indebtedness, as may be provided in  
15 its articles of incorporation.

16 (2) Such capital notes and debentures shall be subordinate to the claims of creditors and  
17 depositors, and shall be provided in any such capital notes or debentures that in the  
18 event of liquidation all depositors and other creditors of the bank shall be entitled to  
19 be paid in full, with such interest as may be provided by law, before any payment  
20 shall be made on account of principal of or interest on said capital notes or  
21 debentures, and may provide that after payment in full of all sums owing to such  
22 depositors and creditors the holders of such capital notes shall be entitled to be paid  
23 from the remaining assets of the bank, the unpaid principal amount of the capital  
24 notes or debentures, plus accrued and unpaid interest thereon, before any payment  
25 or other distribution, whether in cash, property or otherwise, shall be made on  
26 account of any capital stock of the bank.

27 (3) The capital notes or debentures shall in no case be subject to any assessment. The

holders of such capital notes or debentures shall not be liable for any debts, contracts, or engagements of such bank, nor for assessments to restore impairments in the capital of such bank, unless the holder is a stockholder in such bank.

(4) Such capital notes or debentures issued or sold by a bank or trust company shall be considered as a portion of the capital and unimpaired surplus or capital structure of the issuing bank or trust company and shall be considered as such in determining the bank's legal lending or investment limits, and for other purposes, when based upon the capital and unimpaired surplus of the bank or trust company; except that such capital notes and debentures shall not be considered in determining the amount of ad valorem taxes payable by the bank or trust company.

(5) No such capital notes or debentures may be retired or paid by the bank or trust company if at the time of retirement or payment or immediately after, there be an existing deficiency of the bank's or trust company's capital stock, as determined by the commissioner~~[executive director]~~.

(6) No such capital notes or debentures shall be issued or sold by a bank or trust company except for cash, and no bank or trust company which issues such capital notes or debentures shall acquire or hold any of its capital notes or debentures in its own assets or in fiduciary capacity. Any of its own notes or debentures acquired by a bank contrary to the provisions of this section shall be forthwith disposed of by sale or charged to its undivided profits account.

(7) Wherever the terms "capital," "capital stock," or "capital structure" are used in this section, they shall be construed to have reference only to capital actually paid in and capital stock actually issued.

➔Section 625. KRS 286.3-135 is amended to read as follows:

(1) Notwithstanding any other provisions of law, any bank doing business in the Commonwealth, whether state or nationally chartered, may purchase for its own account shares of a bank or bank holding company which owns or controls such a

1 bank provided:

2 (a) The stock of such bank or bank holding company is owned exclusively  
3 (except to the extent director's qualifying shares are required by law) by  
4 depository institutions; and

5 (b) Such bank or bank holding company and all subsidiaries thereof are engaged  
6 exclusively in providing services for depository institutions, their parent  
7 companies, their subsidiaries, the officers, directors, and employees of each.

8 (2) In no event shall the total amount of stock held by a bank in any bank or bank  
9 holding company described in subsection (1) above exceed at any time ten percent  
10 (10%) of a bank's capital stock and paid in and unimpaired surplus and in no event  
11 shall the purchase of such stock result in a bank acquiring more than five percent  
12 (5%) of any class of voting securities of such bank or bank holding company.

13 (3) The commissioner~~executive director~~ is authorized to receive applications, hold  
14 hearings on such applications, and issue charters for a banker's bank.

15 ➔Section 626. KRS 286.3-140 is amended to read as follows:

16 (1) A bank may, with the consent of a majority in number and interest of its  
17 stockholders, amend its articles of incorporation or reorganize to permit it to engage  
18 in a trust business. The stock of the old corporation, if unimpaired, may be  
19 converted into stock in the new corporation.

20 (2) Any bank or trust company may consolidate and the consolidated corporation shall  
21 issue stock for an equivalent amount in value of the stock of the constituent  
22 corporations.

23 (3) Upon written approval of the commissioner~~executive director~~, a bank or trust  
24 company may transfer one (1) or more fiduciary accounts under its administration to  
25 an affiliate of the trust company or bank, as defined in KRS 286.3-230(6), located in  
26 the Commonwealth, if the transferring bank or trust company shall also:

27 (a) Not later than thirty (30) days prior to the date of the transfer of the fiduciary

1 accounts, send written notice to the person or entity that was the recipient of  
 2 the last report of the status of the account. The notice shall include notification  
 3 of the recipient's rights to object to the transfer in the probate division of  
 4 District Court and shall be deemed effective when mailed by the bank or trust  
 5 company; and

6 (b) Within ten (10) days after the date of a transfer of the fiduciary accounts, file  
 7 an affidavit recording the transfer in the District Court, probate division, of the  
 8 county in which its main office is located.

9 ➔Section 627. KRS 286.3-172 is amended to read as follows:

10 (1) A national banking association may convert into or merge with a state bank under a  
 11 state charter, provided that the action taken complies with federal law.

12 (2) In the case of each conversion, a written plan of conversion shall be submitted, in  
 13 duplicate, to the commissioner~~[executive-director]~~. Such plan shall be in form  
 14 satisfactory to the commissioner~~[executive-director]~~, shall prescribe the terms and  
 15 conditions of the conversion and the mode of carrying it into effect, and shall have  
 16 annexed thereto and forming a part thereof the proposed articles of incorporation of  
 17 the state bank which is to result from the conversion. Such articles of incorporation  
 18 shall be in the form prescribed by law for the organization of state banks, with such  
 19 variations, if any, as shall be satisfactory to the commissioner~~[executive-director]~~.

20 With such plan of conversion there shall be submitted, in duplicate, to the  
 21 commissioner~~[executive-director]~~ a certificate of the president, secretary, or cashier  
 22 of the national banking association certifying that all steps have been taken which  
 23 are necessary under federal law to the consummation of the conversion. The  
 24 commissioner~~[executive-director]~~ shall approve or disapprove such plan of  
 25 conversion within sixty (60) days of the submission thereof to him. In considering  
 26 the approval or disapproval of the conversion plan the commissioner~~[executive~~  
 27 ~~director]~~ shall take into account:



1 (a) Any pending administrative or judicial action to which the bank or any officer  
2 or director of the bank is a party;

3 (b) The performance of the converting national bank for the five (5) years  
4 preceding the application for conversion as compared to similarly situated  
5 state-chartered banks; and

6 (c) The proposed name of the bank after conversion which shall not be the same  
7 as or deceptively similar to any existing state-chartered bank.

8 If the commissioner~~[executive director]~~ shall approve such plan, he shall file one  
9 (1) duplicate thereof, together with one (1) duplicate of such certificate submitted  
10 therewith and the original of the approval of the commissioner~~[executive director]~~,  
11 in the office of the commissioner~~[executive director]~~, and the other duplicate of  
12 such plan, together with a duplicate of such certificate and a duplicate of the  
13 commissioner's~~[executive director's]~~ approval, shall be filed in the office of the  
14 clerk of the county in which the principal office of the state bank is to be located.

15 After such filing in the office of the commission, the conversion shall become  
16 effective upon the filing and recording of the articles of incorporation as provided in  
17 KRS 286.3-050, unless a later date is specified in the plan, in which event the  
18 conversion shall become effective upon such later date. If the  
19 commissioner~~[executive director]~~ shall disapprove the conversion plan, he shall  
20 state his reasons for such disapproval in writing to which the converting national  
21 bank shall have the right of appeal as permitted by law.

22 (3) In the case of each merger, a written plan of merger shall be submitted, in duplicate,  
23 to the commissioner~~[executive director]~~. Such plan shall be in form satisfactory to  
24 the commissioner~~[executive director]~~ and shall prescribe the terms and conditions  
25 of the merger and the mode of carrying it into effect. Such plan may provide the  
26 name to be borne by the state bank, as receiving corporation, if such name is to be  
27 changed. Such plan may also name the persons who shall constitute the first board

1 of directors of the state bank after the merger shall have been accomplished,  
 2 provided that the number and qualifications of such person shall be in accordance  
 3 with the provisions of Subtitle 3 of KRS Chapter 286 relating to the number and  
 4 qualifications of directors of a state bank; or such plan may provide for a meeting of  
 5 the stockholders to elect a board of directors within sixty (60) days after such  
 6 merger, and may make provision for conducting the affairs of the state bank  
 7 meanwhile. With such plan of merger there shall be submitted, in duplicate, to the  
 8 commissioner~~executive director~~ the following:

9 (a) By the national banking association, a certificate of the president, secretary, or  
 10 cashier of such association certifying that all steps have been taken which are  
 11 necessary under federal law to the consummation of their merger;

12 (b) By the state bank, a certificate of the president, secretary, or cashier certifying  
 13 that such plan of merger has been approved by the board of directors of the  
 14 state bank by a majority vote of all the members thereof, that such plan has  
 15 been submitted to the stockholders of the state bank at a meeting thereof held;  
 16 upon notice of at least fifteen (15) days, specifying the time and place and  
 17 object of such meeting and addressed to each stockholder at the address  
 18 appearing upon the books of the state bank and published pursuant to KRS  
 19 Chapter 424, and that such plan of merger has been approved at such meeting  
 20 by the vote of the stockholders owning at least two-thirds (2/3) in amount of  
 21 the stock of the state bank.

22 (4) The commissioner~~executive director~~ shall approve or disapprove such plan of  
 23 merger within sixty (60) days of such submission thereof to him. If the  
 24 commissioner~~executive director~~ shall approve such plan, he shall file one (1)  
 25 duplicate thereof, together with one (1) duplicate of each of such certificates and the  
 26 original of the approval of the commissioner~~executive director~~, in the office of the  
 27 commissioner~~executive director~~, and the other duplicate of such plan, together

1 with a duplicate of each of such certificates and a duplicate of the  
2 commissioner's~~executive director's~~ approval, shall be filed in the office of the  
3 clerk of the county in which the principal office of the state bank is to be located.

4 Upon such filing in the office of the commissioner~~executive director~~, the merger  
5 shall become effective, unless a later date is specified in the plan, in which event the  
6 merger shall become effective upon such later date.

7 (5) At the time when such conversion or merger becomes effective:

8 (a) The resulting state bank shall be considered the same business and corporate  
9 entity as the national banking association, although as to rights, powers, and  
10 duties, the resulting bank is a state bank;

11 (b) All of the property, rights, and powers and franchises of the national banking  
12 association shall vest in the resulting state bank and the resulting state bank  
13 shall be subject to and deemed to have assumed all of the debts, liabilities,  
14 obligations, and duties of the national banking association and to have  
15 succeeded to all of its relationships, fiduciary or otherwise, as fully and to the  
16 same extent as if such property, rights, powers, franchises, debts, liabilities,  
17 obligations, duties, and relationships had been originally acquired, incurred, or  
18 entered into by the resulting state bank; provided, however, that the resulting  
19 state bank shall not, through such conversion or merger, acquire power to  
20 engage in any business or to exercise any right, privilege, or franchise which is  
21 not conferred by the provisions of Subtitle 3 of KRS Chapter 286 upon such  
22 resulting state bank;

23 (c) Any reference to the national banking association in any contract, will, or  
24 document, whether executed or taking effect before or after the conversion or  
25 merger, shall be considered a reference to the resulting state bank if not  
26 inconsistent with the other provisions of the contract, will, or document;

27 (d) A pending action or other judicial proceeding to which the national banking

1 association is a party, shall not be deemed to have abated or to have  
 2 discontinued by reason of the conversion or merger, but may be prosecuted to  
 3 final judgment, order, or decree in the same manner as if the conversion or  
 4 merger had not been made; or the resulting state bank may be substituted as a  
 5 party to such action or proceeding, and any judgment, order, or decree may be  
 6 rendered for or against it that might have been rendered for or against the  
 7 national banking association if the conversion or merger had not occurred.

8 ➔Section 628. KRS 286.3-180 is amended to read as follows:

- 9 (1) Banks authorized under the laws of this state may, except as provided in subsections  
 10 (2) or (3) of this section, exercise, only at their principal office, powers necessary to  
 11 carry on the business of banking by discounting and negotiating notes, drafts, bills  
 12 of exchange, and other evidences of debt, and by purchasing bonds, receiving  
 13 deposits and allowing interest on these items, buying and selling exchange, coin,  
 14 and bullion, and lending money on personal or real security.
- 15 (2) A bank may establish within any state, the District of Columbia, or a territory of the  
 16 United States a branch and may exercise all of the powers conferred in subsection  
 17 (1) of this section at the branch. A bank, except for a bank that the  
 18 commissioner~~executive director~~ may designate by the promulgation of  
 19 administrative regulations, shall apply to the commissioner~~executive director~~ for  
 20 permission to establish a branch. Before the commissioner~~executive director~~ shall  
 21 approve or disapprove any application made under this subsection the  
 22 commissioner~~executive director~~ shall ascertain and determine that the public  
 23 convenience and advantage will be served and promoted and that there is reasonable  
 24 probability of the successful operation of the branch based upon the financial and  
 25 managerial impact of the branch on the bank establishing the branch. The following  
 26 conditions shall apply to applications for branches:
- 27 (a) The permission to open a branch shall lapse one (1) year after the

1        commissioner~~[executive director]~~ has rendered a final order as defined in  
 2        KRS 13B.010, unless it shall have been opened and business actually begun in  
 3        good faith. If, for reasons beyond the control of the applicant, the branch is not  
 4        opened within this time period, permission to open the branch may, with the  
 5        approval of the commissioner~~[executive director]~~, be extended for any period  
 6        of time the commissioner~~[executive director]~~ deems to be necessary; and

7        (b) An application to establish a branch office shall be approved or disapproved  
 8        by the commissioner~~[executive director]~~ based upon the facts existing at the  
 9        date of filing of the application, except for the financial condition of the bank  
 10       proposing to establish a branch office, which condition shall be subject to  
 11       review until an order ruling on the application is made.

12       (3) Any corporation which on January 1, 1966, was engaged in operating an agency or  
 13       branch bank may continue to retain and operate the agency or branch bank under the  
 14       general banking laws, and the requirements set forth in this section in respect to  
 15       capital shall not apply to any existing agency or branch bank but only as to those  
 16       agencies or branch banks which may be established in the future in accordance with  
 17       the terms of this section.

18       (4) The provisions of this section shall not be construed to prohibit the merger of banks  
 19       in the same county and the operation by the merged corporation of the banks, nor to  
 20       prohibit the sale of any bank to, and the purchase by, any other bank in the same  
 21       county and the operation of the bank by the purchasing bank as a branch, provided  
 22       the commissioner~~[executive director]~~ shall determine that the public convenience  
 23       and necessity will be served by the operation. The bank which does not survive the  
 24       merger shall surrender its charter.

25       (5) Any national banking association or any state bank member of the Federal Reserve  
 26       system whose principal office is located in this state may do all things and perform  
 27       all acts which state banks are permitted to do or perform under this section, subject

1 to the conditions and restrictions provided for banks as to exercise of these powers.

- 2 (6) When a branch or agency bank has once been established any operation of the  
 3 branch or agency bank shall not be discontinued, and the branch or agency bank  
 4 shall not be closed until after ninety (90) days' notice in writing to the  
 5 commissioner~~[executive director]~~. In the discretion of the commissioner~~[executive~~  
 6 ~~director]~~ the branch or agency bank proposing to discontinue operation may be  
 7 required to give notice of the date when its operation will cease.

8 ➔Section 629. KRS 286.3-185 is amended to read as follows:

9 A bank may move its principal office or a branch from one (1) location to another. A  
 10 bank, except for a bank that the commissioner~~[executive director]~~ may designate through  
 11 the promulgation of administrative regulations, shall apply to the  
 12 commissioner~~[executive director]~~ for approval to relocate its principal office or a branch.  
 13 Before the commissioner~~[executive director]~~ shall approve or disapprove any change of  
 14 location, he shall ascertain and determine that the public convenience and advantage will  
 15 be served and promoted and that there is a reasonable probability of the successful  
 16 operation of the branch or principal office at the new location.

17 ➔Section 630. KRS 286.3-187 is amended to read as follows:

- 18 (1) Except as set forth in subsection (7) of this section, with prior approval of the  
 19 commissioner~~[executive director]~~ and upon compliance with the requirements of  
 20 this section, any state bank may agree to receive deposits, renew time deposits,  
 21 close loans, service loans, receive payments on loans and other obligations, and  
 22 perform other services as may be authorized by administrative regulations, as an  
 23 agent for any national bank, savings and loan, or savings bank having its principal  
 24 office in Kentucky or any state bank.
- 25 (2) A state bank that proposes to enter into an agency agreement under this section shall  
 26 file with the commissioner~~[executive director]~~, at least thirty (30) days before the  
 27 effective date of the agreement:

- 1 (a) A notice of intention to enter into an agency agreement with a national bank,  
2 savings and loan, or savings bank having its principal office in Kentucky or a  
3 state bank;
- 4 (b) A description of the services to be performed under the agency agreement; and
- 5 (c) A copy of the agency agreement.
- 6 (3) The commissioner~~[executive director]~~ shall decide whether to approve the agency  
7 agreement within thirty (30) days of the receipt of the notice required by subsection  
8 (2) of this section; except if the commissioner~~[executive director]~~ requests  
9 additional information after receiving such notice, the time limit for the  
10 commissioner's~~[executive director's]~~ decision shall be thirty (30) days after  
11 receiving the additional information.
- 12 (4) The commissioner~~[executive director]~~ may order a state bank to cease acting as an  
13 agent or principal under any agency agreement with a state bank or a national bank,  
14 savings and loan, or savings bank having its principal office in Kentucky that the  
15 commissioner~~[executive director]~~ finds to be inconsistent with safe and sound  
16 banking practices.
- 17 (5) A state bank acting as an agent for a state bank or a national bank, savings and loan,  
18 or savings bank having its principal office in Kentucky in accordance with this  
19 section shall not be considered to be a branch of that institution.
- 20 (6) Except as set forth in subsection (7) of this section, a state bank may act as an agent  
21 for a national bank, savings and loan, or savings bank having its principal office  
22 outside Kentucky to the same extent it could act were it operating as a national bank  
23 at the time.
- 24 (7) Nothing in this section authorizes a state bank to conduct any activity as an agent  
25 under this section which the bank is not permitted to conduct as a principal under  
26 any applicable federal or state law.

27 ➔Section 631. KRS 286.3-199 is amended to read as follows:

1 (1) As used in this section, unless the context requires otherwise:

2 (a) "Commissioner~~[Executive director]~~" means the commissioner~~[executive~~  
3 ~~director]~~ of financial institutions and any other person lawfully exercising the  
4 powers of the commissioner~~[executive director]~~.

5 (b) "Officers" means the person or persons designated by the board of directors of  
6 a bank to act for the bank in carrying out the provisions of this section.

7 (c) "Emergency" means any condition which interferes with the conduct of  
8 normal business operations at one (1) or more or all offices of a bank or  
9 banks, or which poses an imminent or existing threat to the safety and security  
10 of persons or property, or both. Without limiting the generality of the  
11 foregoing an emergency may arise as a result of any one (1) or more of the  
12 following: fire, flood, wind, rain or snowstorms, labor disputes, power  
13 failures, transportation failures, war and riots, civil commotions, and other  
14 acts of lawlessness or violence.

15 (d) "Office" means any place at which a bank transacts business or conducts  
16 operations related to the transaction of business.

17 (e) "Person" includes natural persons, corporations, partnerships and associations.

18 (2) Whenever the commissioner~~[executive director]~~ is of the opinion that an  
19 emergency exists in this state or in any part or parts of this state, the  
20 commissioner~~[he]~~ shall, by proclamation, authorize those banks which, in the  
21 opinion of their officers, are directly or indirectly affected by such emergency to  
22 close one (1) or more or all their offices.

23 (3) Whenever the officers of a bank are of the opinion that an emergency exists which  
24 affects one (1) or more or all the bank's offices, they shall have authority to close  
25 one (1) or more or all such offices even though the commissioner~~[executive~~  
26 ~~director]~~ has not issued a proclamation of emergency, and they may provide that the  
27 business normally transacted at a closed office will be transacted at another office



1 designated by the bank until further notice. The office or offices so closed shall  
2 remain closed until the commissioner~~[executive-director]~~ proclaims that the  
3 emergency has ended, or until such earlier time as the officers of the bank determine  
4 that one (1) or more offices, theretofore closed because of the emergency, should  
5 reopen, or, if the commissioner~~[executive-director]~~ has issued no proclamation of  
6 emergency, until the officers of the bank determine that such office or offices  
7 should reopen. The discretion of the officers in acting pursuant to this section, when  
8 exercised in good faith, shall not be questioned in any court or place.

9 (4) A bank closing an office or offices pursuant to this section shall give prompt notice  
10 to the commissioner~~[executive-director]~~ as conditions will permit.

11 (5) No bank and no director, officer or employee of a bank shall be liable to any person  
12 for any direct or indirect loss suffered by reason of the bank's failure or inability to  
13 make access to the bank's premises and facilities available to such person or by  
14 reason of the bank's failure or delay in performing any contractual, statutory or other  
15 duty assumed by or imposed upon the bank in any capacity when such failure,  
16 inability or delay is caused by an emergency as defined by this section. The  
17 immunity from liability provided for herein shall endure during the period of such  
18 emergency and for such time thereafter as may reasonably be necessary to afford  
19 such access or perform such duty.

20 (6) The provisions of this section shall be construed and applied as being in addition to  
21 any other law of this state or United States excusing delays by banks in the  
22 performance of duties or obligations, or authorizing the closing of banks because of  
23 emergencies or conditions beyond the bank's control, or otherwise.

24 (7) The commissioner~~[executive-director]~~ may make such orders and regulations, not  
25 inconsistent with this section, as he or she shall deem necessary during an  
26 emergency to provide for the uninterrupted continuance of business by banks to the  
27 extent consistent with the safety and security of persons and property.

➔Section 632. KRS 286.3-212 is amended to read as follows:

- (1) Notwithstanding any other provision of law, any bank, when acting as a fiduciary or when holding securities as custodian for a fiduciary, is authorized to deposit, or arrange for the deposit, with the federal reserve bank in its district of any securities, the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, to be credited to one (1) or more accounts on the books of said federal reserve bank in the name of such bank, to be designated fiduciary for safekeeping accounts, to which account other similar securities may be credited. A bank so depositing securities with a federal reserve bank shall be subject to such rules and regulations with respect to the making and maintenance of such deposit as, in the case of a bank organized under the laws of this state, the commissioner~~[executive director]~~, and, in the case of the national banking associations, the comptroller of the currency, may from time to time issue. The records of such bank shall at all times show the ownership of the securities held in such account. Ownership of, and other interests in, the securities credited to such account may be transferred by entries on the books of said federal reserve bank without physical delivery of any securities. A bank acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank with such federal reserve bank for the account of such fiduciary. A fiduciary shall, on demand by any party, to its accounting or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary with such federal reserve bank for its account as such fiduciary.
- (2) This section shall apply to any fiduciary, and any custodian for fiduciaries, acting on June 21, 1974, or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed.
- (3) As used in this section, "fiduciary" includes an executor, administrator, trustee

1 under any trust, express, implied, resulting or constructive, guardian, conservator,  
 2 receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent,  
 3 officer of a corporation, public or private, public officer or any other person acting  
 4 in a fiduciary capacity for any person, trust or estate.

5 ➔Section 633. KRS 286.3-230 is amended to read as follows:

- 6 (1) Any trust company or bank empowered to act as a fiduciary under the laws of this  
 7 state and subject to examination by state or federal banking authorities may  
 8 establish and maintain one (1) or more common trust funds for the collective  
 9 investment of funds held in any fiduciary capacity by such trust company or bank or  
 10 by an affiliate of the trust company or bank including, without limitation, funds held  
 11 as agent where the trust company, bank, or affiliate exercises investment discretion  
 12 and assumes fiduciary responsibilities.
- 13 (2) Before establishing a common trust fund as provided in subsection (1) of this  
 14 section, the trust company or bank shall file with the commissioner~~executive~~  
 15 ~~director~~ a statement of the plan under which it proposes to establish, maintain,  
 16 operate, and ultimately liquidate the trust fund, and shall secure the written approval  
 17 of the plan by the commissioner~~executive director~~.
- 18 (3) After such a trust fund has been established, it may be modified or amended by  
 19 filing with the commissioner~~executive director~~ a statement setting forth the  
 20 proposed modification or amendment, and securing the written approval of the  
 21 change by the commissioner~~executive director~~.
- 22 (4) The bank, trust company, or affiliate shall at all times maintain definite records  
 23 showing all securities and properties held in such fund.
- 24 (5) The trust company, bank, or affiliate may invest funds held by it in any fiduciary  
 25 capacity in one (1) or more common trust funds established as provided in  
 26 subsection (1) of this section, or one (1) or more common trust funds wherever  
 27 located established, owned, or controlled by an affiliate of the trust company, bank,

1 or affiliate so long as:

2 (a) The investment is not specifically prohibited by the instrument, judgment  
3 decree, or order creating the fiduciary relationship; and

4 (b) In the case of cofiduciaries, the trust company, bank, or affiliated bank  
5 procures the written consent of its cofiduciary or cofiduciaries to the  
6 investment, which consent the cofiduciary or cofiduciaries are hereby  
7 authorized to grant.

8 (6) As used in subsection (1) of this section, "affiliate of the trust company or bank"  
9 means any trust company, bank, or other entity that controls, is controlled by, or is  
10 under common control with the trust company, bank, or other entity.

11 ➔Section 634. KRS 286.3-290 is amended to read as follows:

12 In the case of obligations to banks and trust companies, the limitations and restrictions of  
13 KRS 286.3-280 shall not apply to:

14 (1) Obligations of the United States or of the State of Kentucky;

15 (2) Obligations guaranteed as to principal and interest by the United States or the State  
16 of Kentucky; or all obligations to the extent secured or covered by guarantees or by  
17 commitments or agreements to take over or to purchase the same made by any  
18 federal reserve bank or by the United States or by any department, bureau, board,  
19 commission or establishment of the United States, including any corporation wholly  
20 owned directly or indirectly by the United States; or consolidated bonds issued by or  
21 for federal land banks or consolidated debentures issued by or for federal  
22 intermediate credit banks under the Act of Congress known as the "Federal Farm  
23 Loan Act," and amendments thereto; or consolidated debentures issued by or for  
24 banks for cooperatives under the Act of Congress known as the "Farm Credit Act of  
25 1933," and amendments thereto; or obligations issued by the federal home loan  
26 banks; or obligations which are insured by the federal housing administrator  
27 pursuant to Title 12, Section 12, Section 1713, United States Code, if the

1 debentures to be issued in payment of such insured obligations are guaranteed as to  
 2 the principal and interest by the United States; or obligations of national mortgage  
 3 associations; except that the commissioner~~executive director~~ may make, alter and  
 4 repeal regulations respecting the total liabilities of any person which:

5 (a) Are secured by direct obligations of the United States or the State of  
 6 Kentucky, and

7 (b) Have a face value at least equal to the amount of such liabilities, and

8 (c) Will mature within five (5) years from the date such liabilities were incurred.

9 (3) Obligations of Kentucky counties and school districts incurred through borrowing  
 10 in anticipation of the current year's tax receipts as authorized by KRS 68.320 and  
 11 160.540.

12 ➔Section 635. KRS 286.3-330 is amended to read as follows:

13 (1) Banks, subject to statutory or charter limitations, may pledge such portion of their  
 14 assets or provide surety bonds as may be required by law as collateral security for  
 15 government deposits made with them, or any of them, by or under the authority of  
 16 the United States, or for any other deposit required by law to be secured.

17 (2) Notwithstanding any law requiring security for deposits in the form of collateral,  
 18 surety bond, or in any other form, security for such deposits shall not be required to  
 19 the extent said deposits are insured under the provisions of Section 12B of the  
 20 Federal Reserve Act (38 Stat. 251) as amended.

21 (3) If a bank proposes to sell its assets and transfer its deposit liability to another bank  
 22 and the purchasing bank is unwilling to accept a sufficient amount of the assets to  
 23 cover the liability to depositors and other creditors, the selling bank may, with the  
 24 consent of the commissioner~~executive director~~, pledge all or a part of its  
 25 remaining or unacceptable assets to secure a loan for an amount sufficient to cover  
 26 the remaining liability to the depositors and other creditors.

27 ➔Section 636. KRS 286.3-350 is amended to read as follows:

1 (1) The board of directors of any bank or trust company organized under the laws of  
 2 this state may declare a dividend of so much of the net profits as they deem  
 3 expedient. The net profits shall be computed by deducting all expenses, losses, and  
 4 interest and taxes accrued or due from the bank.

5 (2) The approval of the commissioner~~[executive director]~~ shall be required if the total  
 6 of all dividends declared by such institution in any calendar year shall exceed the  
 7 total of its net profits of that year combined with its retained net profits of the  
 8 preceding two (2) years, less any required transfers to surplus or a fund for the  
 9 retirement of preferred stock or debt.

10 ➔Section 637. KRS 286.3-375 is amended to read as follows:

11 (1) Every bank shall retain its business records for such periods as are or may be  
 12 prescribed by or in accordance with the terms of this section.

13 (2) Each bank shall retain permanently the minute book of meetings of its stockholders  
 14 and directors, its capital stock ledger and capital stock certificate ledger or stubs, its  
 15 general ledger, its daily statements of condition, its general journal, its investment  
 16 ledger, its copies of bank examination reports, and all records which the  
 17 commissioner~~[executive director]~~ shall, in accordance with the terms of this  
 18 section, require to be retained permanently.

19 (3) All other bank records shall be retained for such periods as the  
 20 commissioner~~[executive director]~~ shall, in accordance with the terms of this  
 21 section, prescribe.

22 (4) The commissioner~~[executive director]~~ shall from time to time issue regulations  
 23 classifying all records kept by banks and prescribing the period for which records of  
 24 each class shall be retained. Such periods may be permanent or for a lesser term of  
 25 years. Such regulations may from time to time be amended or repealed. Prior to  
 26 issuing any such regulation the commissioner~~[executive director]~~ shall consider:

27 (a) Actions at law and administration proceedings in which the production of

1 bank records might be necessary or desirable;

2 (b) State and federal statutes of limitation applicable to such actions or  
3 proceedings;

4 (c) The availability of information contained in bank records from other sources;

5 (d) Such other matters as the commissioner~~[executive-director]~~ shall deem  
6 pertinent in order that its regulations will require banks to retain their records  
7 for as short a period as is commensurate with the interests of bank customers  
8 and shareholders and of the people of this state in having bank records  
9 available.

10 (5) Any bank may dispose of any record which has been retained for the period  
11 prescribed by or in accordance with the terms of this section for retention of records  
12 of its class, and shall thereafter be under no duty to produce such record in any  
13 action or proceeding.

14 (6) Any bank, including the Department~~[Office]~~ of Financial Institutions, may cause  
15 any or all records at any time in its custody to be reproduced by the  
16 microphotographic process, nonerasable optical image discs (CD's), or other records  
17 retention technology approved by the department~~[office]~~, and any reproduction so  
18 made shall have the same force and effect as the original thereof and be admitted in  
19 evidence equally with the original.

20 (7) To the extent that they are not in contravention of any law of the United States, the  
21 provisions of this section shall apply to all banks doing business in this state.

22 ➔ Section 638. KRS 286.3-420 is amended to read as follows:

23 Within ten (10) days after the commissioner~~[executive-director]~~ calls upon a bank or trust  
24 company, it shall publish pursuant to KRS Chapter 424 on a form furnished by the  
25 commissioner~~[executive-director]~~, a condensed statement of its financial condition, at the  
26 close of business on the date named in the call. The commissioner~~[executive-director]~~  
27 may make the call at any time he or she desires. Such published statement shall contain

all information as the commissioner~~[executive director]~~ shall require. The reports shall be signed and sworn to either by the president, vice president, cashier, or one (1) of the directors. A copy of the report, certified to by the publisher, shall be kept in the files of the bank or trust company for review by the department~~[office]~~.

➔Section 639. KRS 286.3-450 is amended to read as follows:

(1) Every state bank, branch of an out-of-state state bank, or trust company doing business under the laws of this state shall be subject to inspection by the commissioner~~[executive director]~~ or by an examiner appointed by the commissioner~~[executive director]~~. Examination shall be made of each institution at least once every twenty-four (24) months, unless other examinations are accepted as provided in subsections (3), (4), and (5) of this section, and not more than twice unless it appears from examination or from the reports of the institution that it has failed to comply with laws or regulations relating to banks or trust companies, or has engaged in unsafe or unsound banking practices.

(2) The commissioner~~[executive director]~~, deputy commissioner~~[director]~~, and each examiner may compel the appearance of any person for the purpose of the examination, which shall be made in the presence of one (1) of the officers of the institution being examined.

(3) Any bank that becomes a member of a Federal Reserve Bank shall be subject to the examination required by the Federal Reserve Act, (38 Stat. 251) as amended, and the commissioner~~[executive director]~~ may, in his discretion, accept examinations made by the Federal Reserve authorities in lieu of examinations made under state laws. The commissioner~~[executive director]~~ shall furnish to the Federal Reserve agent of the district in which the member bank is situated, copies of reports and examinations made of the member bank.

(4) The commissioner~~[executive director]~~ may, in his discretion, accept examinations made by the Federal Deposit Insurance Corporation in lieu of examinations made



1 under state laws.

2 (5) The commissioner~~[executive director]~~ may, in his discretion, enter into cooperative,  
 3 coordinating, and information-sharing agreements with any other bank supervisory  
 4 agencies or any organization affiliated with or representing one (1) or more bank  
 5 supervisory agencies with respect to the periodic examination or other supervision  
 6 of any branch of an out-of-state state bank, or any branch of a state bank in any host  
 7 state. The commissioner~~[executive director]~~ may accept reports of examinations  
 8 and reports of investigation from other bank supervisory agencies and home state  
 9 regulators in lieu of examinations made under state law. The  
 10 commissioner~~[executive director]~~ may enter into joint examinations or joint  
 11 enforcement actions with other bank supervisory agencies having concurrent  
 12 jurisdiction over any bank, bank holding company, branch of an out-of-state state  
 13 bank or any branch of a state bank located in any host state. Information produced  
 14 or provided under this section shall be considered confidential as provided in KRS  
 15 286.3-470.

16 ➔Section 640. KRS 286.3-460 is amended to read as follows:

17 In examinations under KRS 286.3-450 the examining officer shall investigate:

- 18 (1) The cash, bills, collateral, securities, other assets, books of account, and all other  
 19 papers and books of the bank or trust company;
- 20 (2) The condition and resources of the bank, the mode of conducting and managing its  
 21 affairs, the actions of its directors, the investment and disposition of its funds, the  
 22 safety and prudence of its management and the security afforded to those by whom  
 23 its engagements are held;
- 24 (3) Whether the requirements of its charter and of the laws of this state have been  
 25 complied with in the administration of its affairs; and
- 26 (4) Such other matters as the commissioner~~[executive director]~~ deems necessary.

27 ➔Section 641. KRS 286.3-470 is amended to read as follows:

1 (1) Reports of examination, and correspondence that relates to the report of  
 2 examination, of a bank or trust company shall be considered confidential  
 3 information. No officer or director of a bank or trust company, employee of the  
 4 department~~[office]~~, or employee of a state or federal regulatory authority shall  
 5 release any information contained in the examination, except when:

6 (a) Required in a proper legal proceeding in which a subpoena and protective  
 7 order insuring confidentiality has been issued by a court of competent  
 8 jurisdiction; or

9 (b) The information is referred to an appropriate prosecuting attorney for possible  
 10 criminal proceedings, to outside persons providing professional services to the  
 11 bank, or to outside persons for the purpose of evaluating the bank for possible  
 12 acquisition. Reports of examination released to outside persons providing  
 13 professional services to the bank or for the purpose of evaluating the bank for  
 14 possible acquisition, shall require a written request from such outside persons  
 15 and prior approval by the board of directors or an executive committee of the  
 16 bank.

17 (2) The department~~[office]~~ may furnish to and exchange information and reports with  
 18 officials and examiners of other properly authorized state or federal regulatory  
 19 authorities, including the Federal Deposit Insurance Corporation, the Federal  
 20 Reserve Board, and the Office of the Comptroller of the Currency.

21 (3) Every official report concerning a bank or trust company, and every report of  
 22 examination, shall be prima facie evidence of the facts therein stated for all  
 23 purposes in any action in which the department~~[office]~~, bank, or trust company is a  
 24 party.

25 ➔Section 642. KRS 286.3-480 is amended to read as follows:

26 (1) The following fees shall be paid to the commissioner~~[executive director]~~ by  
 27 corporations engaged in a banking or trust business:

- 1 (a) For the investigation incident to the approval of articles of incorporation,  
 2 applications for branch banks and loan production offices, and applications to  
 3 relocate a main or branch office, the fee shall be sufficient to cover the cost of  
 4 the investigation based upon fair compensation for time and actual expense;
- 5 (b) For each state bank and branch of an out-of-state state bank subject to  
 6 inspection and examination by the commissioner~~executive director~~, an  
 7 annual assessment based on the assets of the banks and branches, other than  
 8 assets held by it in a fiduciary capacity, as reported to the department~~office~~  
 9 by the banks and branches as of the thirty-first day of December of the  
 10 previous year. The assessment schedule shall be at the rates the  
 11 commissioner~~executive director~~ shall determine to be necessary to carry out  
 12 the duties of the department~~office~~ and shall be reasonably related to the  
 13 costs incurred by the department~~office~~ in regulating banks and branches.  
 14 The assessment schedule shall be set by administrative regulation;
- 15 (c) For the examination of the assets held by the institution in a fiduciary  
 16 capacity, the fee shall be sufficient to cover the cost of the investigation based  
 17 upon fair compensation for time and actual expense. The  
 18 commissioner~~executive director~~ may accept examinations made of the trust  
 19 department in combined banks and trust companies by examiners for the  
 20 Federal Reserve System, Federal Deposit Insurance Corporation, or a certified  
 21 public accountant; and
- 22 (d) Extraordinary services performed, in addition to examinations, for any  
 23 financial institution, including institutions in liquidation under the supervision  
 24 of the commissioner~~executive director~~, shall be paid for by the institution  
 25 upon the basis of fair compensation for time and actual expense.
- 26 (2) The commissioner~~executive director~~, in his discretion, may enter into cooperative  
 27 agreements with other bank supervisory agencies having concurrent jurisdiction

over any bank, bank holding company, branch of an out-of-state state bank or any branch of a state bank located in any host state, or any organization affiliated with one (1) or more bank supervisory agencies for the collection, remittance, and sharing of fees authorized in subsection (1) of this section.

➔Section 643. KRS 286.3-490 is amended to read as follows:

(1) Every institution under the supervision of the department~~[office]~~ shall make a report to the commissioner~~[executive director]~~ whenever required by the commissioner~~[him]~~ to do so. The commissioner~~[executive director]~~ shall not require more than five (5) reports from any one (1) institution in any one (1) year, unless he or she deems it necessary in order to obtain complete information.

(2) The reports shall show the actual condition of the bank making the report at the close of business on a date designated by the commissioner~~[executive director]~~ and shall specify any information required by the commissioner~~[executive director]~~.

(3) Any officer, director, or board of directors of a bank or trust company shall immediately notify the commissioner~~[executive director]~~ concerning any information relating to that financial institution of which they have personal knowledge, involving fraud, defalcation, misfeasance, or violations of this subtitle. Failure to so notify the commissioner~~[executive director]~~ shall be grounds for officer or director removal pursuant to KRS 286.3-690.

➔Section 644. KRS 286.3-530 is amended to read as follows:

The department~~[office]~~ shall examine banks and trust companies in the hands of a receiver, as other banks and trust companies, until its affairs are wound up, and a copy of the examination shall be filed with the circuit clerk in the county where the bank is located. The receiver or person in charge of the insolvent bank or trust company shall make reports to the department~~[office]~~, and shall submit the affairs of the institution under his control to examination in the same manner as required in the case of other banks and trust companies.

➔Section 645. KRS 286.3-660 is amended to read as follows:

Each June, the commissioner~~[executive director]~~ shall make a report to the Governor setting forth:

- (1) A summary of the condition of every bank or trust company organized and doing business under the laws of this state, subject to examination and inspection under this subtitle, and such other information relating to such banks and trust companies, as, in the commissioner's~~[his]~~ judgment, may be useful;
- (2) A statement of every bank or trust company whose business has been closed during the year, that has failed or voluntarily retired during the year;
- (3) The name of banks or trust companies placed in the commissioner's~~[his]~~ hands in process of liquidation, and the amount of dividends paid thereon;
- (4) Any proposed amendment of the laws relating to banks and trust companies, by which the system, in the commissioner's~~[his]~~ judgment, may be improved, and by which the security of creditors, depositors, and stockholders may be increased.

➔Section 646. KRS 286.3-690 is amended to read as follows:

- (1) If the commissioner~~[executive director]~~ has knowledge or reasonable cause to believe that any bank or trust company, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the bank or trust company has engaged in violations of law, or charter, or administrative regulation promulgated by the department~~[office]~~, or in unsafe or unsound business practices, the commissioner~~[he]~~ may issue and serve upon the bank, trust company, director, officer, employee, agent, or other person a notice of charges containing a statement of facts with respect to alleged violations or practices, and shall fix the time and place at which an administrative hearing shall be held to determine whether an order to cease and desist should issue against the bank, trust company, director, officer, employee, agent, or other person. The hearing shall be conducted in accordance with KRS Chapter 13B.

- 1 (2) Unless the party or parties so served shall appear at the hearing personally or by a  
2 duly-authorized representative, they shall be deemed to have consented to the  
3 issuance of the cease and desist order.
- 4 (3) If the parties consent, or if upon the record made at the hearing the  
5 commissioner~~[executive director]~~ shall find that any violation or unsafe or unsound  
6 practice specified in the notice of charges has been established, the  
7 commissioner~~[he]~~ may issue and serve upon the bank, trust company, director,  
8 officer, employee, agent, or other person an order to cease and desist from any  
9 violation or practice and, further, to take affirmative action to correct the conditions  
10 resulting from any violation or practice.
- 11 (4) If the commissioner~~[executive director]~~ shall determine that the violation or  
12 practice, as specified in the notice of charges pursuant to subsection (1) of this  
13 section, or the continuation thereof, is likely to cause insolvency or substantial  
14 dissipation of assets or earnings of the bank or trust company, or is likely to  
15 otherwise seriously prejudice the interests of its depositors or investors, the  
16 commissioner~~[he]~~ may issue an emergency order pursuant to KRS 13B.125  
17 requiring the bank or trust company, director, officer, employee, agent, or other  
18 person to cease and desist from any violation or practice.
- 19 (5) A cease and desist order or an emergency cease and desist order shall become  
20 effective upon service upon the bank or trust company. Unless set aside, limited or  
21 suspended, as provided by subsection (6) of this section, a cease and desist order  
22 shall remain effective and enforceable pending completion of an administrative  
23 hearing conducted in accordance with KRS Chapter 13B.
- 24 (6) Within ten (10) days after service of an emergency cease and desist order, the party  
25 or parties served may apply to the Circuit Court for the county in which the bank is  
26 located, or the Circuit Court of Franklin County, for an injunction setting aside,  
27 limiting, or suspending the enforcement, operation, or effectiveness of the order

1 pending completion of the administrative hearing, and the court shall have  
2 jurisdiction to issue an injunction.

3 (7) In the case of violation or threatened violation of, or failure to obey, an emergency  
4 cease and desist order or a cease and desist order issued pursuant to this section, the  
5 commissioner~~executive director~~ may apply to the Circuit Court for the county in  
6 which the bank or trust company is located, or the Circuit Court of Franklin County,  
7 for an injunction to enforce the order, and it shall be the duty of the court to issue  
8 the injunction.

9 (8) If the commissioner~~executive director~~ shall determine that any officer or director  
10 of a bank or trust company has committed any violation of law, of an administrative  
11 regulation, or of a cease and desist order which has become final, or has engaged in  
12 or participated in any unsafe or unsound practice in connection with the bank or  
13 trust company, or has committed or engaged in any act, omission, or practice which  
14 constitutes a breach of his or her fiduciary duty as officer or director, and the  
15 commissioner~~executive director~~ determines that the bank or trust company has  
16 suffered or will probably suffer substantial financial loss or other damages or that  
17 the interests of its depositors or investors could be seriously prejudiced by reason of  
18 the violation or practice of breach of fiduciary duty or that the director or officer has  
19 received financial gain by reason of the violation or practice or breach of fiduciary  
20 duty, the commissioner~~executive director~~ may serve upon the director or officer a  
21 written notice of intention to remove him or her from office. The violation,  
22 practice, or breach shall be one (1) involving personal dishonesty on the part of the  
23 director or officer, or one (1) which demonstrates a willful or continuing disregard  
24 for the safety or soundness of the bank. The written notice shall serve to suspend the  
25 officer or director from office. The suspension shall become effective upon service  
26 of the notice and, unless stayed by a court in proceedings authorized by subsection  
27 (10) of this section, shall remain in effect pending the completion of the

1 administrative hearing under subsection (9) of this section. The resignation of an  
 2 officer or director from the bank shall not prohibit the commissioner~~executive~~  
 3 ~~director~~ from pursuing an action for removal of the officer or director.

4 (9) A notice of intention to remove an officer or director from office shall contain a  
 5 statement of the facts constituting grounds therefor, and shall fix a time and place at  
 6 which an administrative hearing shall be held in accordance with KRS Chapter 13B.

7 (10) Within ten (10) days after an officer or director has been suspended from office, the  
 8 officer or director may apply to the Circuit Court for the county in which the bank  
 9 or trust company is located for a stay of the suspension pending the completion of  
 10 the administrative hearing pursuant to the notice served upon the officer or director,  
 11 and the court shall have jurisdiction to grant the stay.

12 (11) The bank, trust company, or person assessed shall be afforded an opportunity for an  
 13 administrative hearing upon request made to the commissioner~~executive director~~  
 14 within ten (10) days after issuance of the assessment notice. The hearing shall be  
 15 conducted in accordance with KRS Chapter 13B.

16 (12) Any person aggrieved by a final order of the commissioner~~executive director~~  
 17 under subsections (9) or (11) of this section may obtain a review of the order by  
 18 filing in the Circuit Court for the county in which the bank or trust company is  
 19 located a petition of appeal in accordance with KRS Chapter 13B.

20 (13) The commissioner~~executive director~~ may apply to the Circuit Court for the county  
 21 in which the bank or trust company is located for an injunction to enforce any final  
 22 order issued under subsection (9) of this section or any assessment made under  
 23 subsection (11) of this section, and it shall be the duty of the court to issue the  
 24 injunction.

25 ➔Section 647. KRS 286.3-820 is amended to read as follows:

26 (1) For the purpose of this section:

27 (a) "Loan production office" means a bank office located at a place other than the



1 principal or branch office, at which bank employees solicit and originate loans  
 2 for final approval and disbursement of funds at the principal or branch office;  
 3 and

4 (b) "Disbursement of funds" is the process by which a bank officer in a principal  
 5 or branch office issues a negotiable instrument at the principal or branch  
 6 office.

7 (2) A bank, except for a bank that the commissioner~~executive director~~ may designate  
 8 by the promulgation of administrative regulations, shall apply to the  
 9 commissioner~~executive director~~ for permission to establish a loan production  
 10 office. The commissioner~~executive director~~ shall approve the application unless  
 11 he or she finds that:

12 (a) The proposed operation of the loan production office is not in accordance with  
 13 this section;

14 (b) The financial standing, moral character, and capability of the bank and its  
 15 management which proposes to operate a loan production office will  
 16 jeopardize the financial stability of the bank;

17 (c) There is no reasonable assurance of sufficient volume of business for the  
 18 proposed loan production office to be successful; and

19 (d) The public convenience and advantage will not be promoted by the opening of  
 20 the proposed loan production office.

21 (3) All extensions of credit originated in a loan production office shall be in accordance  
 22 with disclosure provisions, usury rates, and other fees and charges authorized by  
 23 law for banks.

24 (4) Loan production offices shall not accept deposits or conduct any other banking  
 25 functions except those enumerated in paragraph (a) of subsection (1) of this section.

26 (5) The commissioner~~executive director~~ may examine the operations of any loan  
 27 production office for the purpose of determining that the scope of its activities does

not exceed that allowed in this section. Banks operating loan production offices shall maintain copies of records relating to extensions of credit originated in loan production offices at the principal office for examination purposes.

- (6) The application and appeal process set forth in KRS Chapter 13B and the cease and desist powers of the commissioner~~[executive-director]~~ set forth in KRS 286.3-690 shall apply to loan production offices.

➔Section 648. KRS 286.3-854 is amended to read as follows:

- (1) The commissioner~~[executive-director]~~ may take possession and close a bank for purposes of liquidation in any case in which the commissioner~~[he]~~ finds that the bank:

- (a) Is insolvent;
- (b) Has permitted capital to become impaired to a level which does not permit the bank to operate in a safe and sound manner;
- (c) Has had insurance of depositors' accounts terminated by the FDIC; or
- (d) Has requested through its board of directors that the commissioner~~[executive-director]~~ take possession for the benefit of depositors, other creditors and shareholders.

- (2) If the commissioner~~[executive-director]~~ has taken possession of and closed a bank for purpose of liquidation, the commissioner~~[executive-director]~~ shall forthwith issue a written finding of one (1) or more of the grounds for closing provided in this section and shall appoint a receiver for the bank. The commissioner~~[executive-director]~~ shall immediately thereafter apply to the receivership court for confirmation of the appointment of a receiver. The court shall act upon the application forthwith and may proceed without notice to any person.

➔Section 649. KRS 286.3-856 is amended to read as follows:

The commissioner~~[executive-director]~~ shall tender appointment as receiver to the FDIC if any deposits in the closed bank are insured by the FDIC. Upon acceptance of the

1 appointment as receiver, the FDIC shall not be required to post bond.

2 ➔Section 650. KRS 286.3-860 is amended to read as follows:

3 Immediately after closing any state bank for purposes of liquidation under the provisions  
 4 of KRS 286.3-854, the commissioner~~executive director~~ shall post an appropriate notice  
 5 of closing at the main entrance of the bank, and thereafter no judgment lien, attachment  
 6 lien or any voluntary lien shall attach to any asset of said bank, nor shall the directors,  
 7 officers or agents of such bank thereafter have authority to act on behalf of said bank or to  
 8 convey, transfer, assign, pledge, mortgage or encumber any assets thereof.

9 ➔Section 651. KRS 286.3-900 is amended to read as follows:

10 (1) For purposes of this section and KRS 286.3-905:

11 (a) "Bank" means any institution organized under this subtitle, the banking laws  
 12 of another state, or the National Bank Act, as amended, to do a banking  
 13 business;

14 (b) "Bank holding company," "company," and "control" have the meanings  
 15 accorded them in the Federal Bank Holding Company Act of 1956, as  
 16 amended (12 U.S.C. secs. 1841 et seq.). "Control" may be acquired by  
 17 acquisition of voting securities, by purchase of assets, by merger or  
 18 consolidation, by contract, or otherwise;

19 (c) "Individual" means a natural person, partnership, association, business trust,  
 20 voting trust, or similar organization. "Individual" does not include a  
 21 corporation; and

22 (d) "Deposit" has the meaning accorded it in the Federal Deposit Insurance Act,  
 23 as amended, and regulations promulgated thereunder; excluded, however,  
 24 from deposits are all interbank deposits and all deposits in foreign branches  
 25 and international banking facilities, as shown in the reports made by all  
 26 federally insured depository institutions to their respective supervisory  
 27 authorities.

1 (2) No individual or bank holding company wherever located may acquire control of  
 2 any bank or bank holding company if, upon the acquisition, the individual or bank  
 3 holding company would control banks in this state holding more than fifteen  
 4 percent (15%) of the total deposits and member accounts in the offices of all  
 5 federally insured depository institutions in this state as reported in the most recent  
 6 June 30 quarterly report made by the institutions to their respective supervisory  
 7 authorities which are available at the time of the acquisition.

8 (3) The limitations set forth in this section or any other provision of this subtitle or any  
 9 administrative regulation promulgated thereunder, as now in effect or amended after  
 10 July 13, 1984, shall not apply to the acquisition of a bank if, in his or her discretion,  
 11 the commissioner~~[executive director]~~, if the bank is organized under the laws of  
 12 this state, or the comptroller of the currency, if the bank is a national bank,  
 13 determines that an emergency exists and the acquisition is appropriate in order to  
 14 prevent the probable failure of the bank which is closed or is in danger of closing.

15 (4) The provisions of this section shall not be construed to prohibit or restrict the  
 16 merger or consolidation of banks or bank holding companies having their principal  
 17 places of business in the same county and the operation by the merged or  
 18 consolidated corporation of the banks, nor to prohibit the sale of any bank or bank  
 19 holding company to, and the purchase thereof by, any other bank or bank holding  
 20 company with its principal place of business in the same county and the operation  
 21 of the bank as a branch so long as the provisions of KRS 286.3-180(4) have been  
 22 satisfied.

23 ➔Section 652. KRS 286.3-905 is amended to read as follows:

24 (1) Any bank holding company which proposes to acquire control of a bank chartered  
 25 in this state or a bank holding company which includes a bank chartered in this  
 26 state, shall concurrently file with the commissioner~~[executive director]~~ copies of  
 27 the application filed with the federal reserve board under applicable federal law.

1 The commissioner~~[executive-director]~~ shall approve such acquisition within ninety  
 2 (90) days of acceptance of a complete application if the commissioner~~[he]~~ finds  
 3 that:

4 (a) The terms of the acquisition are in accordance with the laws of this state;

5 (b) The financial condition, or the competence, experience, and integrity of the  
 6 acquiring company or its principals are such as will not jeopardize the  
 7 financial stability of the acquired bank or bank holding company;

8 (c) The public convenience and advantage will be served by the acquisition; and

9 (d) No federal regulatory authority whose approval is required has disapproved  
 10 the transaction because it would result in a monopoly or substantially lessen  
 11 competition.

12 (2) A nonrefundable fee shall accompany each application and shall be set by the  
 13 commissioner~~[executive-director]~~ in accordance with KRS 286.3-480.

14 (3) The commissioner~~[executive-director]~~ may examine or elect to participate in a joint  
 15 examination, with the applicable federal or state regulatory agency, of any holding  
 16 company or nonbank subsidiary of the holding company that controls or is affiliated  
 17 with a state-chartered bank. The provisions of KRS 286.3-690 apply to the holding  
 18 company or nonbank subsidiary of the holding company that controls or is affiliated  
 19 with a state-chartered bank.

20 (4) The commissioner~~[executive-director]~~ may enter into cooperative agreements with  
 21 federal or state regulatory authorities to examine an out-of-state bank that is  
 22 controlled by a Kentucky bank holding company or is controlled by a bank holding  
 23 company which includes a state-chartered bank, or accept reports of examinations  
 24 of such out-of-state banks from federal or state regulatory authorities in lieu of  
 25 conducting examinations.

26 (5) The commissioner~~[executive-director]~~ may enter into cooperative agreements with  
 27 federal or state regulatory authorities to exchange confidential information and

1 reports of examination relating to interstate acquisitions of banks and bank holding  
2 companies.

- 3 (6) The cost of an examination shall be assessed against and paid by the company  
4 examined. The assessment for the examination shall be calculated in the same  
5 manner as that used for bank examinations.

6 ➔Section 653. KRS 286.3-915 is amended to read as follows:

- 7 (1) Notwithstanding any other provision of Subtitle 1, 2, or 3 of KRS Chapter 286:

8 (a) An individual or bank holding company that controls two (2) or more banks  
9 having their principal offices in this Commonwealth may, from time to time,  
10 combine any or all of the commonly controlled banks in this Commonwealth  
11 into and with any one (1) of the banks, and thereafter the surviving bank,  
12 which shall have its principal office in this Commonwealth, shall continue to  
13 operate its principal office and may operate the other authorized offices of the  
14 banks so combined as branches of the surviving bank; and

15 (b) Any combination authorized by this section shall not require the approval of  
16 the commissioner~~[executive director]~~ of financial institutions, but on or  
17 before thirty (30) days prior to consummation of any combination, the  
18 proposed surviving bank shall notify the commissioner~~[executive director]~~ of  
19 the combination, and on the effective date of any such combination the charter  
20 of any combined bank organized under the laws of this Commonwealth shall  
21 be surrendered.

- 22 (2) Following any combination authorized by this section:

23 (a) The surviving bank may, subject to the approval of the  
24 commissioner~~[executive director]~~ as provided in KRS 286.3-180(2), establish  
25 and operate additional branches in any county where any bank involved in the  
26 combination had established a branch or main office;

27 (b) Any combined bank which is being operated as a branch of the surviving bank

1 shall have a board of directors, a majority of which shall be residents of the  
 2 combined bank's community, which shall meet not less often than quarterly to  
 3 advise the branch in a nonfiduciary capacity with respect to the branch's  
 4 community activities and affairs, customer relations, and local charitable  
 5 activities;

6 (c) The surviving bank shall maintain a record of the deposits in each of its  
 7 offices resulting from such combination or thereafter established as provided  
 8 in paragraph (a) of this subsection; and

9 (d) With the approval of the commissioner~~executive director~~, all of a bank's  
 10 offices in a county may be transferred, by a purchase and assumption or other  
 11 transaction, by the bank to a newly chartered bank having its principal office  
 12 in the same county, or to an existing bank.

13 (3) For purposes of this section:

14 (a) The term "combine" or "combination" includes a merger or the acquisition of  
 15 all or substantially all of the assets of a bank already controlled by an  
 16 individual or bank holding company;

17 (b) An individual or bank holding company "controls" a bank if that individual or  
 18 company, directly or indirectly, owns, controls, or has the power to vote at  
 19 least eighty percent (80%) of the issued and outstanding voting securities of  
 20 the bank;

21 (c) "Combined bank" means any bank participating in a combination authorized  
 22 by this section other than the surviving bank;

23 (d) "Surviving bank" means a bank into which a combined bank has been  
 24 combined;

25 (e) "Bank" includes a national bank, savings and loan association, and federal  
 26 savings bank; and

27 (f) "Individual," "bank holding company," and "deposit" shall have the same

1 meanings attributed to them in KRS 286.3-900(1).

2 ➔Section 654. KRS 286.3-920 is amended to read as follows:

3 (1) As used in this section, unless the context requires otherwise:

4 (a) "Interstate merger transaction" means the merger or consolidation of banks  
5 with different home states, and the conversion of branches of any bank  
6 involved in the merger or consolidation into branches of the resulting bank;  
7 and

8 (b) "Resulting bank" means a bank that has resulted from an interstate merger  
9 transaction under this section.

10 (2) A Kentucky state bank may establish, maintain, and operate one (1) or more  
11 branches in a state other than Kentucky in accordance with an interstate merger  
12 transaction in which the Kentucky state bank is the resulting bank, or if the other  
13 state permits, by acquisition of a branch or branches in the other state. Not later than  
14 the date on which the required application for the interstate merger transaction or  
15 branch acquisition is filed with the responsible federal bank supervisory agency, the  
16 applicant shall file an application on a form prescribed by the  
17 commissioner~~executive director~~ and pay the fee prescribed by KRS 286.3-480.  
18 The applicant shall also comply with the applicable provisions of KRS 286.3-180(2)  
19 and the commissioner~~executive director~~ shall base his or her approval or  
20 disapproval in the same manner as prescribed in KRS 286.3-180(2).

21 (3) An out-of-state state bank may establish, maintain, and operate one (1) or more  
22 branches in Kentucky in accordance with an interstate merger transaction in which  
23 the out-of-state state bank is the resulting bank in accordance with the requirements  
24 of Kentucky laws and administrative regulations. If the laws of the home state of the  
25 out-of-state bank place more restrictive terms or requirements on Kentucky state  
26 banks seeking to acquire and merge with a bank in that state, the interstate merger  
27 of the out-of-state bank may be allowed only under substantially the same terms and



1 conditions as applicable to Kentucky state banks in that state. Not later than the date  
 2 on which the required application for the interstate merger transaction is filed with  
 3 the responsible federal bank supervisory agency, the applicant shall file an  
 4 application on a form prescribed by the commissioner~~executive director~~, pay the  
 5 fee prescribed by KRS 286.3-480, and agree in writing to comply with the laws of  
 6 this state applicable to its operation of branches in Kentucky. The applicant shall  
 7 also comply with the applicable provisions of KRS 286.3-180(2) and the  
 8 commissioner~~executive director~~ shall base his or her approval or disapproval in  
 9 the same manner as prescribed in KRS 286.3-180(2).

10 (4) No interstate merger transaction under subsection (2) or (3) of this section shall be  
 11 approved if the transaction would result in a bank holding company having control  
 12 of banks or branches in this state holding more than fifteen percent (15%) of the  
 13 total deposits and member accounts in the offices of all federally insured depository  
 14 institutions in this state as reported in the most recent June 30 quarterly report made  
 15 by the institutions to their respective supervisory authorities which are available at  
 16 the time of the transaction.

17 (5) An individual or bank holding company that controls two (2) or more banks may,  
 18 from time to time, combine any or all of the commonly controlled banks in this  
 19 Commonwealth into and with any one (1) of the banks, and thereafter the surviving  
 20 bank shall continue to operate its principal office and may operate the other  
 21 authorized offices of the banks so combined as branches of the surviving bank.

22 (6) A branch of an out-of-state state bank may conduct any activities that are authorized  
 23 under the laws of this state for state banks. Additionally, the branch of an out-of-  
 24 state state bank is authorized to conduct any activities relating to the administration  
 25 of trusts that are authorized under the laws of its home state, if the activities are  
 26 conducted in conformity with the laws of its home state.

27 (7) A branch of a Kentucky state bank located in a host state may conduct any activities

1 that are:

2 (a) Authorized under the laws of the host state for banks chartered by the host  
3 state; or

4 (b) Authorized for branches of national banks located in the host state, but whose  
5 principal location is in a state other than the host state.

6 ➔Section 655. KRS 286.3-990 is amended to read as follows:

7 (1) Any person who violates KRS 286.3-030(2) may be fined not less than five hundred  
8 dollars (\$500) nor more than one thousand dollars (\$1,000) for each day he or she is  
9 engaged in the private banking business.

10 (2) Any institution that fails to make the report required by KRS 286.3-420 to the  
11 commissioner~~executive director~~ within five (5) days after the report is due or  
12 demanded, or that fails to have the report published as required by KRS 286.3-420,  
13 may be assessed and, if assessed, shall pay a penalty of two hundred dollars (\$200).

14 (3) If any person violates KRS 286.3-440(3) his or her office shall ipso facto become  
15 vacant. The president or cashier of any bank or trust company to which any person  
16 becomes indebted in violation of KRS 286.3-440(3) shall immediately report such  
17 fact to the commissioner~~executive director~~, who may remove the person so  
18 offending.

19 (4) Any receiver of an insolvent institution who fails to comply with the provisions of  
20 this subtitle shall be subject to the same penalties provided for solvent institutions  
21 and officers so offending.

22 (5) Any directors of a bank who knowingly violate, or knowingly permit any officer or  
23 employee of the bank to violate, any of the laws relating to banks, shall be jointly  
24 and severally liable to the creditors and stockholders for any loss or damage  
25 resulting from such violation. If the loss or damage is not made good within a  
26 reasonable time, the commissioner~~executive director~~, with the consent of the  
27 Attorney General, shall institute proceedings to revoke the corporate powers of the

1 bank.

2 (6) Any deputy commissioner~~[director]~~ or any examiner who has knowledge of the  
3 insolvency or unsafe condition of a state bank or trust company, or that it is  
4 inexpedient to permit the bank or trust company to continue business, and who fails  
5 to immediately present a signed report of such facts to the commissioner~~[executive  
6 director]~~, or who violates any of the provisions of this subtitle, shall forfeit his or  
7 her office and shall be fined not less than one hundred (\$100) nor more than two  
8 thousand dollars (\$2,000) for each offense.

9 (7) Any commissioner~~[executive director]~~ who has knowledge of the insolvency or  
10 unsafe condition of a state bank or trust company, or that it is inexpedient to permit  
11 the bank or trust company to continue business, and who willfully fails to take the  
12 action prescribed by this subtitle, or who violates any of the provisions of this  
13 subtitle, shall forfeit his or her office and shall be fined not less than five hundred  
14 (\$500) nor more than five thousand dollars (\$5,000) for each offense.

15 (8) Any bank or trust company that knowingly fails to make a report required by law or  
16 by the commissioner~~[executive director]~~ within the time designated for the making  
17 thereof, or fails to include in such report any matter required by law or by the  
18 commissioner~~[executive director]~~, or fails to publish a report within thirty (30) days  
19 after it should have been published, or fails to pay when due the fees for filing  
20 reports or for an examination of the bank, shall be subject to a penalty of one  
21 hundred dollars (\$100) for each day of delinquency, but the aggregate penalty for  
22 each kind of offense shall not exceed one thousand dollars (\$1,000).

23 (9) Each person, bank, or trust company that willfully makes or transmits a false report  
24 or refuses to submit its books, papers, and assets for examination, or any officer of a  
25 bank who refuses to be examined under oath concerning the affairs of the bank,  
26 shall be severally fined not less than five hundred dollars (\$500) nor more than five  
27 thousand dollars (\$5,000).

- 1 (10) Whenever any fine imposed by subsection (1), (2), (4), (6), (7), (8), (9), (15), (16),  
2 (17), or (18) of this section is not paid, the Attorney General shall institute an  
3 action, in the name of the state, in the Franklin Circuit Court or the Circuit Court of  
4 the county in which the offense was committed, for the recovery of the fine.
- 5 (11) Any person violating any of the provisions of KRS 286.3-225 shall be guilty of a  
6 misdemeanor and fined not less than fifty dollars (\$50) nor more than two thousand  
7 dollars (\$2,000).
- 8 (12) Any person who willfully makes charges in excess of those permitted by KRS  
9 286.3-720 to 286.3-770 shall be guilty of a misdemeanor and upon conviction shall  
10 be punished by a fine not exceeding five hundred dollars (\$500) or by imprisonment  
11 for not more than six (6) months, or both.
- 12 (13) Any bank which violates any provision of KRS 286.3-720 to 286.3-770, except as a  
13 result of an accidental or bona fide error, shall be barred from the recovery of any  
14 finance charges permitted by KRS 286.3-740 and 286.3-750, and the debtor, or the  
15 debtor's~~[his]~~ legal representatives, may recover back, in an action against the bank,  
16 any amounts paid to the bank on account of such finance charge; provided such  
17 action is commenced within two (2) years from the date such violation first  
18 occurred; but the bank may nevertheless recover from the debtor an amount equal to  
19 the principal of extensions of credit made pursuant to a revolving credit plan and  
20 any charges not prohibited by KRS 286.3-760.
- 21 (14) Notwithstanding the provisions of subsections (12) and (13) of this section, any  
22 failure, other than a willful and intentional failure, to comply with any provisions of  
23 KRS 286.3-710 to 286.3-770 may be corrected during the billing cycle next  
24 succeeding the receipt by the bank of written notice thereof from the debtor, and if  
25 so corrected, the bank shall not be subject to any penalty under KRS 286.3-710 to  
26 286.3-770.
- 27 (15) Any bank or trust company which violates or any officer, director, employee, agent,

or other person participating in the conduct of the affairs of a bank who violates the terms of any order issued under KRS 286.3-690 which has become final shall forfeit and pay a fine of not more than one thousand dollars (\$1,000) per day for each day such violation continues. The fine shall be assessed by the commissioner~~[executive director]~~ by written notice. As used in this subsection, the term "violates" includes any action causing, participating in, counseling, aiding, or abetting a violation. In determining the amount of the fine the commissioner~~[executive director]~~ shall consider the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations and such other factors as justice requires.

(16) Any bank which violates the provisions of KRS 286.3-065 may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). The fines may be assessed by the commissioner~~[executive director]~~ by written notice.

(17) Any bank which violates any provisions of KRS 286.3-100(10) may be fined not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) for the first violation, and may be fined not less than two thousand dollars (\$2,000) nor more than five thousand dollars (\$5,000) for any subsequent violations.

(18) Any officer or director who violates the provisions of KRS 286.3-280(1) or (2) may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation, and any officer or director who violates the provisions of KRS 286.3-280(3) may be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) for each violation. The fine may be assessed by the commissioner~~[executive director]~~ by written notice.

→ Section 656. KRS 286.4-410 is amended to read as follows:

(1) As used in this subtitle, unless the context requires otherwise:

(a) "Commissioner~~[Executive director]~~" means the commissioner~~[executive~~

1           ~~director~~] of financial institutions; and

2           (b) "Licensee" means a person licensed under this subtitle; and

3           (c) "Person" means an individual, partnership, association, trust, corporation and  
4           any other legal entity.

5       (2) This subtitle shall not apply to any person doing business under and as permitted by  
6           any law of this state or of the United States relating to banks, savings banks, trust  
7           companies, building and loan associations, cooperative marketing associations,  
8           credit unions, loan and investment companies, or licensed pawnbrokers. This  
9           subtitle does not apply to the purchase or acquisition, directly or indirectly, of notes,  
10          chattel mortgages, installment or conditional sales contracts, embodying liens or  
11          evidencing title retention arising from the bona fide sale of goods or services by a  
12          seller of such goods or services.

13          ➔Section 657. KRS 286.4-420 is amended to read as follows:

14       No person shall, without first obtaining a license from the commissioner~~executive~~  
15       ~~director~~], engage in the business of making loans in the amount or of the value of fifteen  
16       thousand dollars (\$15,000) or less at a greater rate of interest, or consideration therefor  
17       than otherwise permitted by law. All persons licensed under the provisions of this subtitle  
18       on July 15, 1982, are licensed to make loans pursuant to this subtitle, and the  
19       commissioner~~executive director~~ shall, upon request, deliver evidence of licensing  
20       within ninety (90) days of such request.

21          ➔Section 658. KRS 286.4-430 is amended to read as follows:

22       (1) Each application for a license under this subtitle shall be made in writing, under  
23       oath or affirmation, in such form as the commissioner~~executive director~~  
24       prescribes.

25       (2) The application shall contain:

26           (a) In the case of an individual, his name and the address of his residence and  
27           place of business;

(b) In the case of a partnership or association, the name and address of every member thereof and the address of the place where the business is to be conducted;

(c) In the case of a corporation, the names and addresses of the principal officers and directors thereof and the address of the place where the business is to be conducted; and

(d) Such additional information as the commissioner~~[executive director]~~ prescribes.

➔Section 659. KRS 286.4-440 is amended to read as follows:

(1) Each applicant at the time of making application shall pay two hundred fifty dollars (\$250) to the commissioner~~[executive director]~~ as a fee for investigating the application for the initial location in Kentucky, or a fee of one hundred fifty dollars (\$150) for additional locations, and the additional sum of four hundred dollars (\$400) as an annual license fee for each location for the period terminating on the last day of the current calendar year. If the application is filed after June 30 in any year, the payment shall be two hundred dollars (\$200) as a license fee in addition to the fee for investigation.

(2) If any person regulated by the department~~[office]~~ desires to purchase an existing licensed location or locations, the person shall submit an application to the commissioner~~[executive director]~~ containing the information as the commissioner~~[executive director]~~ may prescribe. The fee for this application shall be one hundred dollars (\$100) per location not to exceed one thousand dollars (\$1,000).

➔Section 660. KRS 286.4-450 is amended to read as follows:

(1) The commissioner~~[executive director]~~ shall, after investigation, issue to the applicant a license to make loans in accordance with this subtitle, if the commissioner~~[executive director]~~:

- 1 (a) Approves the form of the application;
- 2 (b) Finds that the financial responsibility, experience, character, and general  
3 fitness of the applicant, and of the members thereof if the applicant is a  
4 partnership or association, and of the officers and directors thereof if the  
5 applicant is a corporation, command the confidence of the community and to  
6 warrant the belief that the business of the applicant will be operated honestly,  
7 fairly, and efficiently in accordance with the purposes of this subtitle; and
- 8 (c) Finds that the applicant has complied with KRS 286.4-440.
- 9 (2) If the commissioner~~executive director~~ does not so find, he or she shall not issue a  
10 license and shall notify the applicant of the denial and return the sum paid by the  
11 applicant as a license fee, retaining the two hundred fifty dollars (\$250)  
12 investigation fee to cover the cost of investigating the application.
- 13 (3) The commissioner~~executive director~~ shall approve or deny every application for  
14 license within sixty (60) days from the filing thereof with the fees unless the time is  
15 extended by a written agreement between the applicant and the  
16 commissioner~~executive director~~. If the commissioner~~executive director~~ denies a  
17 license, the applicant may appeal, and upon appeal an administrative hearing shall  
18 be conducted in accordance with KRS Chapter 13B.
- 19 (4) The official record of the hearing shall be filed in the office of the  
20 commissioner~~executive director~~ as public records, open to public inspection.
- 21 ➔Section 661. KRS 286.4-470 is amended to read as follows:
- 22 (1) No licensee shall conduct the business authorized by this subtitle in any office,  
23 room, or place of business in which any other business, except purchase of retail  
24 and installment sales contracts and motor club memberships, is solicited or engaged  
25 in, or in association or conjunction therewith, except upon a written authorization  
26 from the commissioner~~executive director~~.
- 27 (2) Nothing in this subtitle shall be construed to limit the loans of any licensee to



1 residents of the community in which the licensed place of business is situated, nor  
 2 to prohibit the making and collecting of loans by mail.

- 3 (3) Nothing in this subtitle shall be construed to limit the ability of any licensee to  
 4 make a loan or loans in the principal amount greater than fifteen thousand dollars  
 5 (\$15,000) at the licensed location at the same rates as provided in KRS 360.010.

6 ➔Section 662. KRS 286.4-480 is amended to read as follows:

7 Each license shall remain in full force and effect until it is surrendered by the licensee or  
 8 suspended or revoked as provided in this subtitle. Each licensee shall, on or before each  
 9 December 20, pay to the commissioner~~executive director~~ the annual license fee for the  
 10 next succeeding calendar year.

11 ➔Section 663. KRS 286.4-490 is amended to read as follows:

- 12 (1) The commissioner~~executive director~~ may revoke any license issued under this  
 13 subtitle if the commissioner~~he~~ finds:

- 14 (a) That the licensee has failed to pay his annual license fee; or  
 15 (b) That the licensee has violated any provision of this subtitle or has failed to  
 16 comply with any administrative regulation lawfully promulgated pursuant  
 17 thereto; or  
 18 (c) That any fact or condition then exists which clearly would have warranted the  
 19 commissioner~~executive director~~ in refusing to issue a license on an original  
 20 application; or  
 21 (d) That the licensee has failed to open an office for business within one hundred  
 22 twenty (120) days from the date the license is granted, or has failed to remain  
 23 open for business for a period of one hundred twenty (120) days, unless in  
 24 each case good cause be shown.

- 25 (2) The commissioner~~executive director~~ may suspend any license for a period not  
 26 exceeding thirty (30) days, pending investigation of possible grounds for revocation  
 27 under paragraphs (b) or (c) of subsection (1) of this section.

1 (3) Before the revocation of a license under subsection (1), or suspension under  
 2 subsection (2), the licensee shall be given ten (10) days' written notice of the  
 3 contemplated revocation or suspension of his license, the grounds therefor stated  
 4 specifically, and an opportunity for an administrative hearing to be conducted in  
 5 accordance with KRS Chapter 13B.

6 (4) The commissioner~~[executive director]~~ may reinstate suspended licenses or issue  
 7 new licenses to a licensee whose license has been revoked if no fact or condition  
 8 then exists which clearly would have warranted him or her in refusing originally to  
 9 issue such license under this subtitle.

10 (5) Any licensee may surrender any license by delivering it to the  
 11 commissioner~~[executive director]~~ together with written notice that he or she  
 12 thereby surrenders his license.

13 ➔ Section 664. KRS 286.4-500 is amended to read as follows:

14 Whenever the commissioner~~[executive director]~~ denies any application for a license  
 15 under the provisions of this subtitle or revokes any license issued pursuant to this subtitle,  
 16 the commissioner~~[he]~~ shall forthwith file in his or her office a written order to that  
 17 effect, stating his or her findings with respect thereto and the reasons for the~~[his]~~ action.  
 18 The commissioner~~[executive director]~~ shall also forthwith serve upon the applicant for  
 19 license or licensee a copy of the order, and the applicant or licensee may appeal to the  
 20 Circuit Court of Franklin County, within thirty (30) days after the service of a copy of the  
 21 order.

22 ➔ Section 665. KRS 286.4-560 is amended to read as follows:

23 Notwithstanding the provisions of this or any other law:

24 (1) A licensee may request a borrower to insure tangible personal property, except  
 25 household goods, offered as security for a loan exceeding three hundred dollars  
 26 (\$300) under this subtitle against any substantial risk of loss, damage, or destruction  
 27 for an amount not to exceed the actual value of such property or the approximate

1 amount of the loan, whichever is greater, and for a term and upon conditions which  
 2 are reasonable and appropriate considering the nature of the property and the  
 3 maturity and other circumstances of the loan; provided such insurance is sold by a  
 4 licensed agent, broker, or solicitor.

5 (2) A licensee may also request, provide, obtain, or take as security for any loan  
 6 obligation insurance on the life, unemployment, health, or disability, or all, of the  
 7 borrower, or two (2) of them if there are two (2) or more. Life insurance shall be in  
 8 the approximate amount of the indebtedness scheduled to be due the licensee under  
 9 the loan contract. Not more than one (1) policy of life insurance may be written in  
 10 connection with any loan transaction under this subtitle. The aggregate amount of  
 11 periodic benefits payable by any unemployment, health, or disability insurance  
 12 provided, obtained, or requested by the licensee in the event of unemployment or  
 13 disability, as defined in the policy, shall not exceed the aggregate of the scheduled  
 14 installments and the waiting period provided in such policy must be fourteen (14)  
 15 days or longer. The premium rate for insurance provided under this section shall be  
 16 reasonable in relation to the benefits provided and shall be filed with the  
 17 commissioner~~executive director~~ of insurance. The commissioner~~executive~~  
 18 ~~director~~ of insurance shall, within thirty (30) days after the filing of any premium  
 19 rate, disapprove such premium rate if it is excessive in relation to the benefits. In  
 20 determining whether to approve or disapprove any premium rate, the  
 21 commissioner~~executive director~~ of insurance shall give due consideration to the  
 22 unemployment, mortality, and morbidity costs with respect to such insurance on  
 23 borrowers under this subtitle or similar acts in other states, a reasonable margin for  
 24 underwriting expenses and profit and contingencies to the insurer, and cost and  
 25 compensation to the licensees for providing and servicing such insurance, plus the  
 26 premium taxes payable on such insurance.

27 (3) In accepting any insurance provided for by this section as security for a loan the

licensee, its officers, agents, or employees may deduct the premiums or identifiable charge therefor from the proceeds of the loan, which premium or identifiable charge shall not exceed the rate filed with the commissioner~~executive director~~ of insurance and not disapproved and remit such premiums to the insurance company writing such insurance and any gain or advantage to the licensee or any employee, officer, director, agent, affiliate, or associate from such insurance or its sale shall not be considered as additional or further charge in connection with any loan made under this subtitle. The arranging for and collecting of an identifiable charge shall not be deemed the sale of insurance.

(4) Every insurance policy or certificate written in connection with a loan transaction pursuant to subsection (2) of this section shall provide for cancellation of coverage and a refund of the premium or identifiable charge unearned upon the discharge of the loan obligation for which such insurance is security without prejudice to any claim. Such refund shall be under a formula filed by the insurer with the commissioner~~executive director~~ of insurance.

(5) Whenever insurance is written in connection with a loan transaction pursuant to this section the licensee shall deliver or cause to be delivered to the borrower a policy, certificate, or other memorandum which shall show the coverages and the cost thereof, if any, to the borrower within thirty (30) days from the date of the loan.

(6) All such insurance shall be written by a company authorized to conduct such business in this state and the licensee shall not require the purchase of such insurance from any agent or broker designated by the licensee nor shall the licensee decline existing coverages which equal or exceed the standards of this section.

➔ Section 666. KRS 286.4-590 is amended to read as follows:

Each licensee shall annually on or before January 30, file with the commissioner~~executive director~~ a report for the preceding calendar year. The report shall give information with respect to the financial condition of the licensee and other

1 relevant information as the commissioner~~[executive director]~~ may reasonably require. In  
 2 the event any person or affiliated group of corporations holds more than one (1) license in  
 3 the state, he, she, or they may file a composite annual report in lieu of separate reports for  
 4 each licensed office. The report shall be made under oath in the form prescribed by the  
 5 commissioner~~[executive director]~~, who shall make and publish annually an analysis and  
 6 recapitulation of the reports.

7 →Section 667. KRS 286.4-600 is amended to read as follows:

8 Each licensee shall keep and use in his or her business and shall preserve for at least two  
 9 (2) years after making the final entry therein, such books, accounts, records, or card  
 10 systems in accordance with sound accounting principles and practices to enable the  
 11 commissioner~~[executive director]~~ to determine whether the licensee is complying with  
 12 the provisions of this subtitle, and with the regulations made pursuant thereto, and for at  
 13 least three (3) years on loans secured by residential property.

14 →Section 668. KRS 286.4-610 is amended to read as follows:

15 (1) The provisions of this subtitle shall be enforced by the commissioner~~[executive~~  
 16 ~~director]~~, who may, after notice to licensees and a hearing, promulgate regulations,  
 17 referenced to the section or sections which set forth the legislative standards they  
 18 interpret or apply, for the proper conduct of the business licensed under this subtitle.  
 19 All regulations of general application shall state the date of promulgation and the  
 20 effective date. A copy of every such regulation shall be sent to all licensees before  
 21 the effective date thereof and a copy shall be kept in an indexed permanent book in  
 22 the office of the commissioner~~[executive director]~~ as a public record.

23 (2) The commissioner~~[executive director]~~ shall make an annual examination of the  
 24 affairs, business, office, and records of every licensee, and such further  
 25 examinations or investigations as the commissioner~~[he]~~ deems necessary for the  
 26 purpose of discovering violations of this subtitle or of securing information  
 27 necessary for its proper enforcement. Every licensee shall pay a fee sufficient to

1 cover the cost of each examination based upon fair compensation for time and  
2 actual expenses.

3 (3) For the purpose of making such examinations or investigations the  
4 commissioner~~[executive director]~~ and his or her representatives may require the  
5 attendance of and examine under oath all persons whose testimony he or she may  
6 require, relative to the loans or business of any such licensee, and shall have free  
7 access to the accounts, papers, records, files, safes, vaults, offices, and places of  
8 business used in connection with any business conducted under any license issued  
9 in accordance with this subtitle.

10 ➔Section 669. KRS 286.4-613 is amended to read as follows:

11 No licensee shall be subject to any liability for any act or omission made in conformity  
12 with a written notice, opinion, or interpretation issued by the commissioner~~[executive~~  
13 ~~director]~~.

14 ➔Section 670. KRS 286.4-615 is amended to read as follows:

15 In undertaking the examination of a consumer loan company neither the Commonwealth  
16 of Kentucky, the commissioner~~[executive director]~~ of the Department~~[Office]~~ of  
17 Financial Institutions, nor any examiner employed by the Commonwealth shall become  
18 liable to any depositor, investor, or other obligor of said consumer loan company by  
19 reason of said examination or omission of said examination to fully and effectively  
20 disclose the financial condition of said consumer loan company, it being the policy of the  
21 Commonwealth of Kentucky that such examinations as are required by KRS 286.4-610  
22 are for the purpose of determining compliance with state law and not for the purpose of  
23 protecting or guaranteeing the depositors, investors, or other obligors of said consumer  
24 loan companies.

25 ➔Section 671. KRS 286.4-630 is amended to read as follows:

26 In addition to any other available remedy, any person considering himself aggrieved by  
27 any act or omission of the commissioner~~[executive director]~~ may, within thirty (30) days

1 from the date of such act or failure to act, bring an action in the Circuit Court in and for  
 2 Franklin County to review such act or omission. The hearing before the court shall be  
 3 based on the record before the commissioner~~[executive director]~~ and the  
 4 commissioner's~~[his]~~ findings, if any, and on such new evidence as may be introduced.

5 ➔Section 672. KRS 286.4-991 is amended to read as follows:

6 (1) Any person who shall engage in the business regulated by this subtitle without first  
 7 securing a license therefor shall be guilty of a misdemeanor and upon conviction  
 8 thereof shall be punished by a fine of not less than five hundred dollars (\$500) nor  
 9 more than five thousand dollars (\$5,000). Any loan contract made in violation of  
 10 this subtitle shall be void and the lender shall have no right to collect any principal,  
 11 charges or recompense whatsoever.

12 (2) Any person who willfully violates any rule or order of the commissioner~~[executive~~  
 13 ~~director]~~ authorized under this subtitle, shall be guilty of a Class A misdemeanor,  
 14 but no person may be imprisoned for violation of any rule or order of which that  
 15 person did not have actual knowledge. This section shall not be deemed to limit the  
 16 power of the commissioner~~[executive director]~~ to revoke any license as provided in  
 17 KRS 286.4-490.

18 ➔Section 673. KRS 286.5-011 is amended to read as follows:

19 As used in this subtitle, unless the context otherwise requires:

20 (1) "Association" means a savings and loan association subject to the provisions of this  
 21 subtitle and as used in KRS 136.290, 136.300 and 136.310.

22 (2) "Combination home and business structure" means a building or buildings,  
 23 including residences for not more than four (4) families, which are used in part for  
 24 business purposes. The residential use of such a building must be substantial and  
 25 permanent, not merely transitory. The business use may predominate.

26 (3) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~  
 27 of financial institutions.

- 1 (4) "Direct-reduction loan" means a loan repayable in consecutive weekly, monthly or  
 2 semiannual installments, equal or unequal, sufficient to retire the debt, interest, and  
 3 principal; provided, however, that the initial loan contract shall not provide for any  
 4 subsequent monthly installment of an amount larger than any previous monthly  
 5 installment; and, provided further, that in the case of construction loans the first  
 6 payment under said contract shall be made not later than twelve (12) months after  
 7 the date of the first advance. Any such loan is an amortized loan.
- 8 (5) "Dividend" or "earnings" means that part of the net income of an association which  
 9 is declared payable on savings accounts and savings certificates from time to time  
 10 by the board of directors, and is the cost of savings money to the association.  
 11 Dividend or earnings also may be referred to as "interest."
- 12 (6) "Gross income" means the sum for an accounting period of the following:
- 13 (a) Operating income.
  - 14 (b) Real estate income.
  - 15 (c) All profits actually received during such accounting period from the sale of  
 16 securities, real estate, or other property.
  - 17 (d) Other nonrecurring income.
- 18 (7) "Home" means a dwelling or dwellings for not more than four (4) families, the  
 19 principal use of which is for residential purposes. A home on a farm is a home.
- 20 (8) "Home loan" means a real estate loan the security for which is home property.
- 21 (9) "Home property" means real estate on which there is located, or will be located  
 22 pursuant to a home loan, a home or a combination home and business structure.
- 23 (10) "Impaired condition" means a condition in which the assets of an association in the  
 24 aggregate do not have a fair value equal to the aggregate amount of liabilities of the  
 25 association to its creditors, including its members and all other persons.
- 26 (11) "Improved real estate" means real estate on which there is a structure or an  
 27 enclosure, or which is cultivated, reclaimed, used for the purpose of agriculture in



1 any form, or otherwise occupied, made better, more useful, or of greater value by  
 2 care so as to produce an enjoyment thereof.

3 (12) "Insured association" means an association the savings accounts of which are  
 4 insured in accordance with the provisions of this subtitle.

5 (13) "Member" means a person holding a savings account or a savings certificate of an  
 6 association, or a person borrowing from or assuming or obligated upon a loan or  
 7 interest therein held by an association, or purchasing property securing a loan or  
 8 interest therein held by an association. A joint and survivorship relationship,  
 9 whether of investors or borrowers, constitutes a single membership.

10 (14) "Net income" means gross income for an accounting period less the aggregate of the  
 11 following:

12 (a) Operating expenses.

13 (b) Real estate expenses.

14 (c) All losses actually sustained during such accounting period from the sale of  
 15 securities, real estate or other property, or such portion of such losses as shall  
 16 not have been charged to reserves, pursuant to the provisions of this subtitle.

17 (d) All interest paid, or due but unpaid, on borrowed money.

18 (e) Other nonrecurring charges.

19 (15) "Net income available for dividends or earnings" means net income for an  
 20 accounting period less amount transferred to reserves as provided in this subtitle.

21 (16) "Operating expenses" means all expenses actually paid, or due but unpaid, by an  
 22 association during an accounting period, excluding the following:

23 (a) Real estate expenses.

24 (b) Interest on borrowed money.

25 (c) Other nonrecurring charges.

26 That portion of prepaid expenses which is not apportionable to the period may be  
 27 excluded from operating expenses, in which event operating expenses for future

- 1 periods shall include that portion of such prepaid expenses apportionable thereto.
- 2 (17) "Operating income" means all income actually received by an association during an  
3 accounting period, excluding the following:
- 4 (a) Foreclosed real estate income.
- 5 (b) Other nonrecurring income.
- 6 (18) "Other real estate loan" means a real estate loan the security for which is real estate  
7 other than home property.
- 8 (19) "Real estate expenses" means all expenses actually paid, or due but unpaid, in  
9 connection with the ownership, maintenance, and sale of real estate (other than  
10 office building or buildings and real estate held for investment) by an association  
11 during an accounting period, excluding capital expenditures and losses on the sale  
12 of real estate.
- 13 (20) "Real estate income" means all income actually received by an association during an  
14 accounting period from real estate owned (other than from office building or  
15 buildings and real estate held for investment) excluding profit from sale of real  
16 estate.
- 17 (21) "Real estate loan" means any loan or other obligation secured by real estate, whether  
18 in fee or in a leasehold.
- 19 (22) "Savings account" means that part of the savings liability of the association which is  
20 credited to the account of the holders thereof.
- 21 (23) "Savings certificate" means that part of a savings account which is fully paid and is  
22 represented by a certificate.
- 23 (24) "Savings liability" means the aggregate amount of savings accounts and savings  
24 certificates of members, including dividends credited to such accounts, less  
25 redemptions and withdrawals. Savings liability also may be referred to as "deposit."
- 26 (25) "Withdrawal value" means the amount credited to a savings account and savings  
27 certificate of a member, less lawful deductions therefrom, as shown by the records

1 of the association.

2 (26) "Minor" means a person over fourteen (14) years of age and under eighteen (18)  
3 years of age.

4 (27) "Capital stock" as used in this subtitle may be used interchangeably with the term  
5 savings account and savings certificate.

6 ➔Section 674. KRS 286.5-021 is amended to read as follows:

7 Any five (5) or more residents of this state (hereinafter referred to as the "incorporators")  
8 may form an association to promote thrift and home financing, subject to approval as  
9 provided in this subtitle, by signing and acknowledging, before an officer competent to  
10 take acknowledgements of deeds, two (2) copies of a petition for a certificate of  
11 incorporation in the form prescribed by the commissioner~~executive director~~, and of the  
12 bylaws in a form approved by the commissioner~~executive director~~, which shall be filed  
13 with the commissioner~~executive director~~, accompanied by the incorporation fee.

14 ➔Section 675. KRS 286.5-024 is amended to read as follows:

15 (1) Notwithstanding the provisions of KRS 286.5-451(13) any state savings and loan  
16 association which has not become insured by December 31, 1974, must furnish  
17 proof satisfactory to the commissioner~~executive director~~ of financial institutions  
18 prior to June 30, 1975, that it has:

19 (a) Obtained insurance of its savings accounts and share accounts by the Federal  
20 Savings and Loan Insurance Corporation, any agency of this state or other  
21 federal agency established for the purpose of insuring savings accounts in  
22 associations, or with any other insurer approved by the  
23 commissioner~~executive director~~ and meeting the qualifications prescribed in  
24 this subsection; provided that no association subject to the provisions of this  
25 subtitle shall have the power to obtain insurance of accounts from, or  
26 represent in any way its accounts are insured by, any insurer other than the  
27 Federal Savings and Loan Insurance Corporation, or other federal agency or

1 state agency, unless the commissioner~~[executive director]~~, after application to  
 2 him for approval and after reasonable notice and an opportunity to be heard  
 3 the commissioner~~[executive director]~~ shall have determined:

4 1. That the contract of insurance contemplated is written upon substantially  
 5 the same basis as to form, amount, coverage, maturity, voluntary and  
 6 involuntary termination and other provisions as the insurance contract  
 7 provided at that time by the Federal Savings and Loan Insurance  
 8 Corporation, and complies with the further requirements for protection  
 9 as the commissioner~~[executive director]~~ in his discretion may deem  
 10 reasonably necessary; and

11 2. That the contract is underwritten by an insurer having a net worth  
 12 reasonably commensurate with the risk underwritten, which is licensed  
 13 in this state and authorized to do business in this state, and the  
 14 commissioner~~[executive director]~~ shall have issued a certificate of  
 15 approval of such application; or

16 (b) Become a federal savings and loan association member of the Federal Home  
 17 Loan Bank Board; or

18 (c) Merged into an existing insured savings and loan association, either state or  
 19 federal; or

20 (d) Entered into voluntary liquidation.

21 Any merger into an insured savings and loan association or any voluntary  
 22 liquidation must have the prior written approval of the commissioner~~[executive~~  
 23 ~~director]~~.

24 (2) Any state savings and loan association which has not by the close of business June  
 25 30, 1975, accomplished any one of the four steps prescribed in subsection (1) shall  
 26 on and after July 1, 1975, be prohibited from:

27 (a) Making any loans pursuant to this subtitle; and

(b) Accepting any savings accounts, payments on share accounts or membership fees.

(3) Notwithstanding any other provisions of state law to the contrary, if any state savings and loan association has not accomplished one of the four steps prescribed in subsection (1) of this section by December 31, 1974, the commissioner~~executive director~~ shall apply to a court of general jurisdiction in the county in which the home office of such association is located for the appointment of a liquidating receiver for purposes of liquidating the assets and winding up the business affairs of such association. However, if such state savings and loan association shall furnish to the commissioner~~executive director~~ proof satisfactory to him that a definite plan of accomplishment of one of said four conditions prescribed in subsection (1) of this section has been substantially completed, the commissioner~~executive director~~ may, in his sole discretion, extend the time for taking action for the appointment of such receiver. The commissioner~~executive director~~ in granting such extension may permit the acceptance of savings account payments on share accounts, membership fees or the making of loans.

→ Section 676. KRS 286.5-025 is amended to read as follows:

No certificate of incorporation as provided for under this subtitle shall be granted or approved by the commissioner~~executive director~~ after June 16, 1972, unless the applicant for such certificate:

- (1) Submits sufficient evidence of being fully insured by the Federal Savings and Loan Insurance Corporation or other federal agency; or
- (2) Submits sufficient evidence of commitment by the Federal Savings and Loan Insurance Corporation or other federal agency that the applicant will be issued federal insurance immediately subsequent to the execution of the certificate of incorporation by the commissioner~~executive director~~.

→ Section 677. KRS 286.5-031 is amended to read as follows:

1 (1) Upon receipt of the articles of incorporation, the commissioner~~[executive director]~~  
 2 shall first determine whether or not the articles comply with the provisions of this  
 3 subtitle and, if he so finds, he shall promptly notify any state or federal savings and  
 4 loan association in the locality in which the proposed office or offices are to be  
 5 located specifying a time in which they must file objections. The  
 6 commissioner~~[executive director]~~ shall then inquire into the advisability of  
 7 approving the application by investigating:

8 (a) The moral character and the financial responsibility of the incorporators and  
 9 the principles of the applicant.

10 (b) The public necessity of such an association in the community to be served,  
 11 and

12 (c) The reasonable probability of its usefulness and success. In so doing he shall  
 13 determine whether or not the savings and loan association can be established  
 14 without undue injury to properly conducted existing savings and loan  
 15 associations, in connection with which the incorporators and principals shall  
 16 furnish such information as they may desire and as the  
 17 commissioner~~[executive director]~~ may require.

18 (2) After allowing the specified time for filing objections, the commissioner~~[executive~~  
 19 ~~director]~~ shall approve the application if he finds that the moral character and  
 20 financial responsibility of the incorporators and principals are sound and such as to  
 21 justify public confidence and to insure the reasonable probability of the success of  
 22 the association; that the incorporators and principals have complied with the  
 23 provisions of this subtitle, that the incorporation is advisable and, after investigation  
 24 there is reason to believe that no undue injury to properly conducted existing  
 25 savings and loan associations, either state or federal, will result. Unless the  
 26 application, after investigation, meets all the above requirements the  
 27 commissioner~~[executive director]~~ shall disapprove it.

1 (3) If approved, the commissioner~~[executive director]~~ shall at the same time execute in  
2 triplicate a certificate of incorporation in the form prescribed by him.

3 (4) The commissioner~~[executive director]~~ shall file one (1) signed copy of such  
4 certificate of approval and of the certificate of incorporation with the Secretary of  
5 State. The commissioner~~[executive director]~~ shall indorse upon the two (2) copies  
6 of the petition for certificate of incorporation filed with him or her such certificate  
7 of approval and return the duplicate original and a copy of the certificate of  
8 incorporation to the association, addressed to the chairman of the incorporators, and  
9 shall retain the original petition for certificate of incorporation and a copy of the  
10 certificate of incorporation in the permanent files of the department~~[his office]~~. The  
11 certificate of incorporation shall not be filed or recorded in any other state or county  
12 office. The failure of the commissioner~~[executive director]~~ to file, return, or retain  
13 any such document shall not affect the validity of the incorporation of any  
14 association.

15 ➔Section 678. KRS 286.5-041 is amended to read as follows:

16 (1) (a) The name of every association incorporated shall include the words "Savings  
17 and Loan Association." These words shall be preceded by an appropriate  
18 descriptive word or words approved by the commissioner~~[executive director]~~  
19 of financial institutions. An ordinal number may not be used as a single  
20 descriptive word preceding the words, "Savings and Loan Association," unless  
21 such word is followed by the words "of ...." the blank being filled by the name  
22 of the town, city, or county in which the association has its home office. An  
23 ordinal number may be used together with another descriptive word,  
24 preceding the words "Savings and Loan Association," provided the other  
25 descriptive word has not been used in the corporate name of any other  
26 association in the state, in which case the suffix mentioned above is not  
27 required to be used. An ordinal number may be used, together with another

descriptive word, preceding the words "Savings and Loan Association," even when such other descriptive word has been used in the corporate name of an association in the state, provided the suffix "of .....", as provided above, is also used. The suffix provided above may be used in any corporate name.

(b) The use of the words, "National," "Federal," "United States," "Insured," "Guaranteed," or any form thereof, separately or in any combination thereof with other words or syllables, is prohibited as part of the corporate name of an association. No certificate of incorporation of a proposed association having the same name as a corporation authorized to do business under the laws of this state or a name so nearly resembling it as to be calculated to deceive shall be issued by the commissioner~~[executive director]~~.

(2) (a) No person, unless lawfully authorized to do business in this state under the provisions of this subtitle, and is actually engaged in carrying on a savings and loan association business, shall do business under any name or title which contains the terms "savings association," "savings and loan association," "building and loan association," "building association," or any combination employing either or both of the words "building" or "loan" with one or more of the words "saving," "savings," "thrift," or words of similar import, or any combination employing one or more of the words "saving," "savings," "thrift," or words of similar import with one or more of the words "association," "institution," "society," "company," "corporation" or words of similar import, or use any name or sign or circulate or use any letterhead, billhead, circular or paper whatever, or advertise or represent in any manner which indicates or reasonably implies that his or its business is the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that his or its business is that of an association.

(b) Upon application by the commissioner~~[executive director]~~ or any association,



1 a court of competent jurisdiction may issue an injunction to restrain any such  
 2 entity from violating or continuing to violate any of the provisions of this  
 3 subsection.

4 (c) The prohibitions of this subsection shall not apply to any corporation or  
 5 association formed for the purpose of promoting the interests of savings  
 6 associations, the membership of which is comprised of savings associations,  
 7 their officers or other representatives.

8 ➔Section 679. KRS 286.5-051 is amended to read as follows:

- 9 (1) Without the prior approval of the commissioner~~[executive director]~~, as provided in  
 10 this subtitle, no association shall establish any office other than its home office,  
 11 which shall be in the city and county named in the certificate of incorporation. No  
 12 office of an association shall be moved from its immediate vicinity unless approved  
 13 by the commissioner~~[executive director]~~.
- 14 (2) The name or the location of the home office of any association fixed in the  
 15 certificate of incorporation may be changed in the following manner: The proposed  
 16 new name or the new location of the home office of the association shall be  
 17 approved by a resolution adopted by the board of directors. Immediately preceding  
 18 application to the commissioner~~[executive director]~~ for approval, notice of  
 19 intention to change the name or the location of the home office, signed by two (2)  
 20 officers, shall be published once a week for two (2) successive weeks in a  
 21 newspaper of general circulation in the county in which the home office is located,  
 22 and a copy of such notice shall be displayed during such consecutive two (2) weeks'  
 23 period in a conspicuous place in the home office of the association. Five (5) copies  
 24 of an application to the commissioner~~[executive director]~~ for approval shall be  
 25 signed by two (2) officers of the association, acknowledged before an officer  
 26 competent to take acknowledgments of deeds and filed with the  
 27 commissioner~~[executive director]~~. Upon approval of an application for change of

1 name, the commissioner~~[executive director]~~ shall indorse on each copy of the  
 2 application therefor a certificate of approval thereof, and the change of name of  
 3 such association shall be effective immediately. Upon approval of an application for  
 4 change of location of the home office of an association, the  
 5 commissioner~~[executive director]~~ shall indorse on each copy of such application a  
 6 certificate of approval, as provided in this subtitle. When the  
 7 commissioner~~[executive director]~~ shall have indorsed such approval upon the  
 8 copies of an application for approval of change of name or change of location of the  
 9 home office, he shall file one copy thereof with the secretary of state, two (2) copies  
 10 with the federal home loan bank of which the association is a member, return one  
 11 (1) copy to the applicant association and retain the original copy in the permanent  
 12 files of the department~~[his office]~~.

13 ➔Section 680. KRS 286.5-061 is amended to read as follows:

- 14 (1) A branch office is a legally established place of business of the association other  
 15 than the home office authorized by the board of directors and approved by the  
 16 commissioner~~[executive director]~~, at which savings accounts and loan payments  
 17 may be accepted and applications for loans may be received, and at which account  
 18 books and membership certificates may be issued.
- 19 (2) No association may establish or maintain a branch office without the prior written  
 20 approval of the commissioner~~[executive director]~~.
- 21 (3) Each application for approval of the establishment and maintenance of a branch  
 22 office shall state the proposed location, the need, the functions to be performed, the  
 23 estimated annual expense, and the mode of payment therefor. Each such application  
 24 shall be accompanied by a budget of the association for the current dividend period  
 25 and for the next succeeding semiannual period, which reflects the estimated  
 26 additional expense of the maintenance of such a branch office. Upon the receipt by  
 27 the commissioner~~[executive director]~~ of such an application, he shall determine

whether the establishment and maintenance of such office will unduly injure any properly conducted existing association or federal savings and loan association in the community where such branch office or agency is proposed to be established. If he finds that no undue injury is likely to result, that the establishment and maintenance of such branch office is advisable, and in the public interest, the commissioner~~he~~ may approve the application.

- (4) No branch shall be established in any county other than the county in which is located the principal office of the association.

→ Section 681. KRS 286.5-071 is amended to read as follows:

The corporate existence of an association shall begin when the commissioner~~executive director~~ shall issue the certificate of incorporation of the association, and such existence shall be perpetual unless terminated in accordance with the provisions of this subtitle.

→ Section 682. KRS 286.5-091 is amended to read as follows:

- (1) Every association shall keep at the home office correct and complete books of account and minutes of the proceedings of members and directors. Complete records of all business transacted at the home office shall be maintained at the home office. Control records of all business transacted at each branch office shall be maintained at the home office.

- (2) Each branch office shall keep detailed records of all transactions at such branch office and shall furnish full control records to the home office.

- (3) No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association, or corporation or under any title or designation that is not truly descriptive of such assets.

- (4) The bonds or other interest-bearing obligations purchased by an association shall not be carried on its books at more than the actual cost.

- (5) An association shall not carry any real estate on its books at a sum in excess of the

1 total amount invested by such association on account of such real estate, including  
2 advances, costs, and improvements.

3 (6) Every association shall appraise each parcel of real estate at the time of acquisition.

4 The report of each such appraisal shall be submitted in writing to the board of  
5 directors and shall be kept in the records of the association. The  
6 commissioner~~executive director~~ may require the appraisal of real estate securing  
7 loans which are delinquent more than twelve (12) months.

8 (7) Every association shall maintain membership records, which shall show the name  
9 and address of the member, the status of the member as a savings account holder, or  
10 an obligor, or a savings account holder and obligor, and the date of their  
11 membership.

12 (8) Any association may cause any or all records kept by such association to be copied  
13 or reproduced by any photostatic, photographic or microfilming process which  
14 correctly and permanently copies, reproduces or forms a medium for copying or  
15 reproducing the original record on a film or other durable material, and such  
16 association may thereafter dispose of the original record. Any such copy or  
17 reproduction shall be deemed to be an original record for all purposes and shall be  
18 treated as an original record in all courts or administrative agencies for the purpose  
19 of its admissibility in evidence. A facsimile, exemplification or certified copy of any  
20 such copy or reproduction reproduced from a film record shall, for all purposes, be  
21 deemed a facsimile, exemplification or certified copy of the original record.

22 ➔Section 683. KRS 286.5-111 is amended to read as follows:

23 Savings and loan associations, their officers, employees or agents, savings accounts, and  
24 the sale, issuance or offering of savings accounts of any association or federal savings and  
25 loan associations are exempted from all laws of this state, other than this subtitle, which  
26 provide for supervision, registration or regulation in connection with the sale, issuance or  
27 offering of securities, and the sale, issuance or offering of any such accounts shall be legal

1 without any action or approval whatsoever on the part of any official, other than the  
 2 commissioner~~[executive director]~~, authorized to license, regulate, or supervise the sale,  
 3 issuance or offering of securities.

4 ➔Section 684. KRS 286.5-121 is amended to read as follows:

5 Every association shall prepare and publish annually in a newspaper of general circulation  
 6 in the county in which the home office of such association is located, and shall deliver to  
 7 each member upon application therefor, a statement of its financial condition in the form  
 8 prescribed or approved by the commissioner~~[executive director]~~.

9 ➔Section 685. KRS 286.5-131 is amended to read as follows:

10 In each January every association shall file with the commissioner~~[executive director]~~ a  
 11 statement of its condition at the close of business on December 31 preceding. The  
 12 statement shall be signed and sworn to by the president, manager or secretary and attested  
 13 by at least two (2) directors, and shall show the amount of paid-up capital, the amount of  
 14 all cash receipts and disbursements and such other facts as the commissioner~~[executive~~  
 15 ~~director]~~ requires.

16 ➔Section 686. KRS 286.5-141 is amended to read as follows:

17 The chairman of the incorporators shall procure from a surety company or other surety  
 18 acceptable to the commissioner~~[executive director]~~, a surety bond in form approved by  
 19 the commissioner~~[executive director]~~ in an amount at least equal to the amount  
 20 subscribed by the incorporators plus the expense fund. Such bond shall name the  
 21 commissioner~~[executive director]~~ as obligee and shall be delivered to him. It shall assure  
 22 the safekeeping of the funds subscribed and their delivery to the association after the  
 23 issuance of the certificate of incorporation and after the bonding of the officers. In the  
 24 event of the failure to complete organization, such bond shall assure the return of the  
 25 amounts collected to the respective subscribers or their assigns, less reasonable expenses  
 26 which shall be deducted from the expense fund.

27 ➔Section 687. KRS 286.5-151 is amended to read as follows:

- 1 (1) The number of shares into which the capital stock of an association is divided shall
- 2 be at least two hundred (200) in cities having less than five thousand (5,000)
- 3 population and at least five hundred (500) in other cities.
- 4 (2) The capital stock to be accumulated shall be divided into shares of the ultimate
- 5 value fixed by the articles of incorporation, except associations in operation on
- 6 March 20, 1918, in which case a copy of the bylaws, attested by the secretary of
- 7 such association, shall be filed with the commissioner~~{executive director}~~.
- 8 (3) The shares may be issued at such times and in such classes as the bylaws designate,
- 9 and they may be issued upon the continuing or permanent plan, if so provided in the
- 10 bylaws.
- 11 (4) Nothing within this subtitle shall be interpreted to permit the establishment of an
- 12 association which could issue a type of capital stock which in essence would
- 13 destroy the mutuality concept of a savings, building and loan association as
- 14 presently existing.

15 ➔Section 688. KRS 286.5-171 is amended to read as follows:

- 16 (1) Every domestic association shall set aside at least one percent (1%) of the net
- 17 income each year as a reserve fund to provide against contingent losses, until the
- 18 total amount of the fund so set aside equals twelve percent (12%) of the assets of
- 19 the association. The commissioner~~{executive director}~~ may require other specific
- 20 reserves in his or her discretion.
- 21 (2) Any losses from sale of real estate may be charged against this fund and in the event
- 22 of any such charges then any profits from the sale of real estate shall, to the extent
- 23 of losses charged, be credited to the said fund.

24 ➔Section 689. KRS 286.5-181 is amended to read as follows:

25 Within thirty (30) days after the corporate existence of an association begins, the directors

26 of the association shall hold an organization meeting and shall elect officers pursuant to

27 the provisions of this subtitle. At the organization meeting the directors shall take such

1 other action as is appropriate in connection with beginning the transaction of business by  
 2 the association. The commissioner~~[executive-director]~~ may extend by order the time  
 3 within which the organization meeting shall be held.

4 ➔Section 690. KRS 286.5-191 is amended to read as follows:

5 Any association, which does not commence business within six (6) months after the date  
 6 of its corporate existence, shall forfeit its corporate existence, unless the  
 7 commissioner~~[executive-director]~~, before the expiration of such six (6) months' period,  
 8 shall have approved the extension of time within which it may commence business, upon  
 9 a written application stating the reasons for such delay. Upon such forfeiture the  
 10 certificate of incorporation shall expire, and all action taken in connection with the  
 11 incorporation thereof except the payment of the incorporation fee, shall become void.  
 12 Amounts credited on savings accounts, less expenditures authorized by law, shall be  
 13 returned pro rata to the respective holders thereof.

14 ➔Section 691. KRS 286.5-271 is amended to read as follows:

15 (1) Every member shall have the right to inspect such books and records of an  
 16 association as pertain to his loan or savings account. Otherwise, the right of  
 17 inspection and examination of the books and records shall be limited:

18 (a) To the commissioner~~[executive-director]~~ or the commissioner's~~[his]~~ duly  
 19 authorized representatives as provided in this subtitle;

20 (b) To persons duly authorized to act for the association; and

21 (c) To any federal instrumentality or agency authorized to inspect or examine the  
 22 books and records of an insured association.

23 (2) Except as otherwise authorized by KRS 205.835, the books and records pertaining  
 24 to the accounts and loans of members shall be kept confidential by the association,  
 25 its directors, officers and employees, and by the commissioner and the  
 26 commissioner's~~[executive-director, his]~~ examiners and representatives, except  
 27 where the disclosure thereof shall be compelled by a court of competent

1 jurisdiction, and no member or any other person shall have access to the books and  
2 records or shall be furnished or shall possess a partial or complete list of the  
3 members except upon express action and authority of the board of directors.

4 ➔Section 692. KRS 286.5-451 is amended to read as follows:

5 (1) Associations may make loans on the direct reduction plan. The board of directors  
6 may or the bylaws of the association shall prescribe interest rates which may be  
7 variable and may prescribe the duration of the loan, and the loan shall be payable in  
8 equal weekly or monthly installments.

9 (2) The applicant for such loan shall subscribe for and shall pledge one (1) or more  
10 shares of stock of the association or the association may require the applicant for  
11 such loan to subscribe for and pledge shares or fractional shares of stock, equal,  
12 when paid up, to the amount of the loan. Payment of dues and interest shall be  
13 credited upon the loan and shares in accordance with the direct reduction plan  
14 adopted. In consideration of making loans upon such plan no dividend shall be  
15 declared or paid or credited upon amounts credited as dues or principal upon such  
16 loans, but all payments, made on the loans shall be first applied to interest due to the  
17 date of respective payments and the balance applies as dues on principal, and  
18 interest shall be collected only on the balance. When the amount paid in as dues and  
19 credited as payment on the shares as calculated equals the value of a share or shares,  
20 such shares shall be considered paid in full and automatically canceled but such  
21 cancellation shall in no manner affect or reduce the stipulated weekly or monthly  
22 installment payments provided to be paid in the note or mortgage given to evidence  
23 and secure the payment of the loan. No borrower shall be permitted more than one  
24 (1) vote for any and all shares owned by him, which are pledges as security for a  
25 loan.

26 (3) When any such installment becomes due and remains unpaid for six (6) weeks after  
27 it has become due and payable, then all the balance of such installments, both due



1 and to become due, shall immediately become due and payable at the option of the  
2 holder of the note, and the borrower shall be notified of the delinquency, and  
3 payments shall be demanded, by mail with postage prepaid to the address of the  
4 borrower as it appears on the books of the association. If the delinquent payments of  
5 principal and interest are not paid within thirty (30) days from the mailing of the  
6 notice, then all money paid in as dues or principal and such shares, may be forfeited  
7 by the association and applied first to the payment of interest due and the balance on  
8 principal and suit may be brought to enforce payment of the note and mortgage.

9 (4) Associations may make loans on the sole security of savings accounts or savings  
10 certificates. No such loan shall exceed the withdrawal value of the accounts owned  
11 or savings certificates or otherwise pledged for or by the borrower. No such loan  
12 shall be made when an association has applications for withdrawal which have been  
13 on file more than sixty (60) days and not reached for payment.

14 (5) (a) Associations may make loans on a reduction plan where the reduction of loan  
15 or credit upon loan shall be made at the end of every semiannual period. The  
16 applicants for such loans shall subscribe for shares equal, when paid up, to the  
17 amount of such loans.

18 (b) The bylaws shall prescribe the interest rate and duration of the loan, and the  
19 loan shall be payable in equal weekly or monthly installments. Payment of  
20 dues, interest, and premium, shall be credited upon the semiannual reduction  
21 plan. At the end of each semiannual period, the dues paid, and any dividends  
22 credited, shall be credited upon the loan.

23 (c) All payments made on the loan shall first be credited to payment of interest  
24 and premium, and the balance, with dividends credited, shall be applied on  
25 principal at the end of every semiannual period. After such credit, interest  
26 shall be charged on the balance. When the amount paid is as dues together  
27 with dividends credited, equals the par value of the shares, such shares shall

1 automatically be canceled, and the mortgage released.

2 (d) All loans made under this plan shall be subject to the provisions relating to  
3 repayment of loans, and relating to default in payment of dues and interest as  
4 provided in this subtitle.

5 (6) Associations may make without regard to the foregoing any loan, secured or  
6 unsecured, which is insured or guaranteed in any manner and in any amount by the  
7 United States or any instrumentality thereof.

8 (7) In the case of loans made under subsections (4), (5), and (6) of this section, in the  
9 event the ownership of the real estate security or any part thereof becomes vested in  
10 a person other than the party or parties originally executing the security instruments,  
11 and provided there is not an agreement in writing to the contrary, an association  
12 may, without notice to such party or parties, deal with such successor or successors  
13 in interest with reference to said mortgage and the debt thereby secured in the same  
14 manner as with such party or parties, and may forbear to sue or may extend time for  
15 payment of or otherwise modify the terms of the debt secured thereby, without  
16 discharging or in any way affecting the original liability of such party or parties  
17 thereunder or upon the debt thereby secured.

18 (8) Associations may make property improvement loans to home owners and other  
19 property owners for maintenance, repair, modernization and improvement of their  
20 properties and loans for the financing of mobile homes with or without security,  
21 provided that no such loans made at rates in excess of those permitted by KRS  
22 360.010 shall exceed the rate provided by Title I of the Federal Housing Act of  
23 1934, as amended and the Servicemen's Readjustment Act of 1944, as amended,  
24 and provided, further, that not in excess of twenty-five percent (25%) of assets of  
25 the association shall be so invested.

26 (9) The power to make loans shall include:

27 (a) The power to purchase loans of any type that the association may make and

1 (b) The power to make loans upon the security of loans of any type that the  
2 association may make.

3 (10) Associations may participate with other lenders in loans of any type that such an  
4 association may otherwise make, provided that the other participants are  
5 instrumentalities of or corporations owned wholly or in part by the United States or  
6 this state, or are associations organized under the laws of this state, or are  
7 associations or corporations insured by the Federal Savings and Loan Insurance  
8 Corporation or the Federal Deposit Insurance Corporation, or are life insurance  
9 companies with assets in excess of one hundred million dollars (\$100,000,000), or  
10 are employees' or self-employed persons' trusts qualified and exempt from federal  
11 income tax under the provisions of the laws of the United States.

12 (11) Associations may sell without recourse any loan, including any participating  
13 interests therein, at any time, provided that the total dollar amount of such loans  
14 sold, including such sale, within the calendar year beginning January 1 immediately  
15 preceding the date of such sale, does not exceed a sum equivalent to twenty-five  
16 percent (25%) of the dollar amount of all loans and participating interests in loans  
17 held by such association at the beginning of such calendar year; provided, further,  
18 that the commissioner~~executive director~~, upon application of the association  
19 showing good cause, may authorize the sale of a greater amount during a calendar  
20 year. Notwithstanding the limitations of this subsection, loans may be assigned with  
21 recourse to any federal home loan bank of which the association is a member.

22 (12) Associations may service mortgages. The maximum principal amount of mortgages  
23 thus serviced by an association at any one (1) time shall not exceed two-thirds (2/3)  
24 of the amount of the savings liability of such association.

25 (13) Provided, however, that the ability of savings and loan associations to make such  
26 loans as set forth in this section, which are not insured or guaranteed as herein set  
27 forth, shall be contingent and conditioned upon the savings and loan association

1 being fully insured by the Federal Savings and Loan Insurance Corporation as  
 2 provided by Title IV of the National Housing Act of 1934, as amended.

3 (14) The commissioner~~[executive director]~~ is authorized and directed to prescribe such  
 4 rules, regulations, and forms as are deemed to be necessary and appropriate to  
 5 accomplish the basic purposes of and the provisions contained within this subtitle.

6 ➔Section 693. KRS 286.5-571 is amended to read as follows:

7 If conversion, merger or consolidation as provided in KRS 286.5-561 is authorized, a  
 8 copy of the resolutions adopted with respect thereto, verified by the affidavit of the  
 9 president or a vice president and the secretary or assistant secretary of the association,  
 10 shall be filed in the office of the commissioner~~[executive director]~~ within ten (10) days  
 11 from the date of the meeting.

12 ➔Section 694. KRS 286.5-581 is amended to read as follows:

13 (1) If conversion, merger or consolidation under KRS 286.5-561 is authorized, the  
 14 officers and directors shall, within six (6) months from the date of the adoption of  
 15 the resolution, take the steps necessary to effect a conversion, merger or  
 16 consolidation of the association into a federal savings and loan association, and  
 17 upon such terms as may then be agreed upon between the board of directors of the  
 18 association and the federal home loan bank board, or other proper federal authority.

19 The conversion, merger or consolidation shall be void if not consummated within  
 20 eighteen (18) months.

21 (2) Upon the filing in the office of the commissioner~~[executive director]~~ of a certified  
 22 copy of the charter or authorization issued to the association by the federal home  
 23 loan bank board, or other proper federal authority, or of a certificate showing the  
 24 organization of the association as a federal association, certified to by the federal  
 25 home loan bank board, or its authorized representative, the association shall cease to  
 26 be a state association and shall be a federal association, except that the corporate  
 27 existence of the state association shall continue for three (3) years for the purpose of

1 prosecuting or defending suits by or against it, and enabling it to close its affairs.

2 ➔Section 695. KRS 286.5-611 is amended to read as follows:

- 3 (1) Any federal savings and loan association may convert itself into a state-chartered  
4 association upon a vote of two-thirds (2/3) or more of the votes of members of such  
5 federal savings and loan association cast at an annual meeting or at any special  
6 meeting called to consider such action. Copies of the minutes of the proceedings of  
7 such meeting, verified by the affidavit of the secretary or an assistant secretary, shall  
8 be filed in the office of the commissioner~~executive director~~ and mailed to the  
9 federal home loan bank board, Washington, D. C., within ten (10) days after such  
10 meeting. The verified copies of the proceedings of the meeting when so filed shall  
11 be presumptive evidence of the meeting and action taken at such meeting.
- 12 (2) At the meeting at which conversion is voted upon, the members shall also vote upon  
13 the directors who shall be the directors of the state-chartered association after  
14 conversion takes effect. Such directors then shall execute two (2) copies of the  
15 petition for certificates of incorporation provided for in this subtitle and two (2)  
16 copies of the bylaws, as provided in this subtitle.
- 17 (3) The commissioner~~executive director~~ shall insert in the certificates of  
18 incorporation, at the end of the paragraph preceding the testimonium clause, the  
19 following: "This association is incorporated by conversion from a federal savings  
20 and loan association."
- 21 (4) Each of the directors chosen for the association shall sign and acknowledge the  
22 petition for certificates of incorporation as subscribers thereto and the proposed  
23 bylaws as incorporators of the association.
- 24 (5) The provisions of this subtitle shall, so far as applicable, apply to such conversion  
25 under this subtitle. The commissioner~~executive director~~ may provide, by  
26 regulation for the procedure to be followed by any such federal savings and loan  
27 association converting into a state-chartered association. All the provisions

1 regarding property and other rights contained in KRS 286.5-591 shall apply, in  
 2 reverse order, to the conversion of a federal savings and loan association into a  
 3 state-chartered association, so that the state-chartered association shall be  
 4 continuation of the corporate entity of the converting federal association and  
 5 continue to have all of its property and rights.

6 ➔Section 696. KRS 286.5-621 is amended to read as follows:

7 (1) Any association may reorganize or go into voluntary liquidation by the votes of its  
 8 members owning at least two-thirds (2/3) of the shares in force at the time the vote  
 9 is taken.

10 (2) Whenever the members desire to reorganize or go into voluntary liquidation, the  
 11 board of directors or the committee of members appointed for that purpose shall  
 12 submit the question of reorganization or voluntary liquidation to a vote of the  
 13 members at a special meeting of members, but no association shall reorganize or go  
 14 into voluntary liquidation without the approval of the commissioner~~executive~~  
 15 ~~director~~].

16 ➔Section 697. KRS 286.5-631 is amended to read as follows:

17 (1) Whenever a meeting of the members is to be called as provided in KRS 286.5-621,  
 18 the board of directors or the committee shall convene a special meeting of the  
 19 members at the principal office of the association at such time as the directors or  
 20 committee determine.

21 (2) Notice of meeting shall be given to every member of the association by mailing at  
 22 least ten (10) days before the time fixed for the meeting, a notice properly addressed  
 23 to every member at his last recorded address. The directors or committee shall also  
 24 cause a notice of the meeting to be certified to the commissioner~~executive~~  
 25 ~~director~~] at the time notice is given to the members.

26 ➔Section 698. KRS 286.5-641 is amended to read as follows:

27 (1) The directors or committee shall prepare or have prepared a full exhibit of the

1        affairs, property and condition of the association, including an itemized statement of  
 2        its assets and liabilities, which exhibits shall be sworn to by a majority of the  
 3        directors or of the committee before some officer authorized to take  
 4        acknowledgments of deeds in this state. The report shall be printed and a copy  
 5        thereof mailed along with the notice convening the special meeting.

6        (2) The original exhibit and the notice of meeting shall be filed with the  
 7        commissioner~~[executive director]~~ at the time they are mailed to the members.

8        ➔Section 699. KRS 286.5-651 is amended to read as follows:

9        At the special meeting all votes taken shall be by ballot, and votes by the members  
 10        owning at least two-thirds (2/3) of its shares in force at the time the vote is taken shall be  
 11        necessary to carry any resolution for the reorganization or liquidation of the association. If  
 12        the members pass a resolution for reorganization or liquidation, a copy of the resolution,  
 13        certified by the presiding officer and secretary of the meeting, and containing full  
 14        instructions and defining the authority and compensation of the parties to be named  
 15        therein, shall be given to the parties named, and a like duly certified copy of the  
 16        resolution, instructions and authority shall immediately be filed with the  
 17        commissioner~~[executive director]~~ by the parties named in any resolution before they  
 18        enter upon the discharge of their duties. Before the parties named in any resolution  
 19        assume the duties of their trust, they shall become bound with two (2) or more sufficient  
 20        sureties or some surety company authorized to do business in this state in such sum as the  
 21        commissioner~~[executive director]~~ approves.

22        ➔Section 700. KRS 286.5-690 is amended to read as follows:

23        The commissioner~~[executive director]~~ and examiners shall not be interested in an  
 24        association, directly or indirectly, either as creditor (except that each may be a savings  
 25        account holder and receive dividends thereon), director, officer, employee, borrower,  
 26        trustee or attorney, nor shall any one (1) of them receive, directly or indirectly, any  
 27        payment, compensation or gratuity from any association.

1       ➔Section 701. KRS 286.5-700 is amended to read as follows:

2       (1) The commissioner~~[executive director]~~ shall have general supervision over all  
3       associations and corporations which are subject to the provisions of this subtitle. He  
4       shall enforce the purposes of this subtitle by use of the powers herein conferred and  
5       by reference to the courts when required.

6       (2) Every approval by the commissioner~~[executive director]~~ given pursuant to the  
7       provisions of this subtitle and every communication having the effect of an order or  
8       instruction to any association shall be in writing signed by the  
9       commissioner~~[executive director]~~ under seal, and shall be sent by certified mail,  
10      return receipt requested to the association affected, addressed to the president at the  
11      home office of the association.

12      ➔Section 702. KRS 286.5-702 is amended to read as follows:

13      The commissioner~~[executive director]~~ shall have full authority to issue administrative  
14      regulations and promulgate orders to carry out the provisions of this subtitle.

15      ➔Section 703. KRS 286.5-705 is amended to read as follows:

16      (1) Notwithstanding any restrictions elsewhere contained in this subtitle the  
17      commissioner~~[executive director]~~ may prescribe, amend and repeal regulations  
18      authorizing state-chartered savings and loan associations to make any loans and any  
19      investments, accept savings accounts and deposits, and provide for the payments of  
20      dividends or interest thereon, and other matters under the same terms, conditions,  
21      limitations, restrictions and safeguards which such associations could make or do  
22      were they operating as federal savings and loan associations at the time such  
23      authority is granted, provided that such regulations shall have as their objective the  
24      placing of state-chartered savings and loan associations on a substantial,  
25      competitive, operating parity with federal savings and loan associations, in order  
26      that the dual system of savings associations may be preserved.

27      (2) Nothing herein contained shall be construed to repeal, modify or alter the



1 restrictions of subsection (4) of KRS 286.5-061 with respect to branching.

2 ➔Section 704. KRS 286.5-710 is amended to read as follows:

3 (1) The affairs of every association not in liquidation shall be examined by the  
4 commissioner~~[executive-director]~~ or an examiner of the commissioner~~[executive~~  
5 ~~director]~~ as often as is deemed necessary, and at least once in every year, without  
6 any notice to the association, its officers or agents. The examiner shall make a  
7 thorough examination into the condition, workings and affairs of the association.  
8 All books, papers and records and assets of the association shall be subject to his  
9 inspection.

10 (2) The examiner shall file a report of his findings in the office of the  
11 commissioner~~[executive-director]~~ and the commissioner~~[executive-director]~~ shall  
12 furnish a copy of such report to the association examined. The examiner shall report  
13 any violation of law or any unauthorized or unfit practices or any failure to keep and  
14 have correct amounts of business of the association, and if he finds that any director  
15 has willfully neglected to attend meetings regularly, he shall recommend the  
16 discharge of such director.

17 (3) No examiner acting under the provisions of this subtitle shall disclose to any person,  
18 other than officially to the commissioner~~[executive-director]~~, in the report made to  
19 him or in compliance with the order of some court, the names of stockholders or  
20 members in any association, or any information respecting their private accounts.

21 (4) All reports and information in the hands of the commissioner~~[executive-director]~~  
22 concerning federal associations, or federally insured associations, shall be subject to  
23 inspection by the federal home loan bank and the Federal Home Loan Bank Board  
24 and their authorized representatives.

25 ➔Section 705. KRS 286.5-720 is amended to read as follows:

26 (1) In lieu of the examination provided for in KRS 286.5-710, the  
27 commissioner~~[executive-director]~~ may accept any examination made by a federal

1 home loan bank, the federal home loan bank board, or by the Federal Savings and  
 2 Loan Insurance Corporation. Two (2) copies of any audit, signed and certified by  
 3 the auditor making such audit, shall be filed promptly with the  
 4 commissioner~~[executive director]~~.

5 (2) Whenever, in the judgment of the commissioner~~[executive director]~~, the condition  
 6 of any association renders it necessary or expedient to make an extra examination or  
 7 to devote any extraordinary attention to its affairs, the commissioner~~[executive~~  
 8 ~~director]~~ shall cause such work to be done. A full and complete copy of the report of  
 9 all examinations shall be furnished to the association examined. Such report of  
 10 examination or audit shall be presented by the president to the board of directors at  
 11 its next regular or special meeting.

12 (3) The commissioner~~[executive director]~~, or the commissioner's~~[his]~~ examiners or  
 13 auditors, shall have access to all books and papers of an association which relate to  
 14 its business, and books and papers kept by any officer, agent, or employee, relating  
 15 to or upon which any record of its business is kept, and may summon witnesses and  
 16 administer oaths or affirmations in the examination of the directors, officers, agents,  
 17 or employees of any such association or any other person in relation to its affairs,  
 18 transactions, and conditions, and may require and compel the production of records,  
 19 books, papers, contracts, or other documents by court order, if not voluntarily  
 20 produced.

21 ➔ Section 706. KRS 286.5-740 is amended to read as follows:

22 If the commissioner~~[executive director]~~, as a result of any examination or from any report  
 23 made to him, finds that any association is violating the provisions of its certificate of  
 24 incorporation or bylaws, or any state or federal laws, or any lawful order or regulation of  
 25 the commissioner~~[executive director]~~, the commissioner~~[he]~~ shall, by a formal written  
 26 order delivered to the association pursuant to subsection (2) of KRS 286.5-700, state any  
 27 alleged violation, together with a statement of the facts alleged to be such violation, and

1 order discontinuance of such violation and conformance with all requirements of law.  
 2 The order shall specify the effective date thereof, which may be immediate or may be at a  
 3 later date, and such order shall remain in effect until withdrawn by the  
 4 commissioner~~[executive director]~~ or until terminated by a court order. Such order of the  
 5 commissioner~~[executive director]~~, upon application made on or after the effective date  
 6 thereof by the commissioner~~[executive director]~~ to a court of general jurisdiction in the  
 7 county in which the home office of the association is located, shall be enforced ex parte  
 8 and without notice by an order to comply, entered by such court. Any association affected  
 9 by such order of the commissioner~~[executive director]~~ may, after receipt thereof, apply  
 10 within thirty (30) days to the court for an immediate hearing and order suspending the  
 11 order of the commissioner~~[executive director]~~ until such time as the hearing has been  
 12 completed. The hearing of such application to the court shall be upon such notice to the  
 13 commissioner~~[executive director]~~ as the court shall provide. Whether upon application by  
 14 the commissioner~~[executive director]~~ or by the association, the court shall have power  
 15 and shall, after service of process, adjudicate the question and enter the proper order or  
 16 orders and enforce the same.

17 ➔Section 707. KRS 286.5-750 is amended to read as follows:

18 (1) If the commissioner~~[executive director]~~, as a result of any examination or from any  
 19 report made to the commissioner~~[him]~~, believes that the public interest may be  
 20 served by the appointment of a conservator, applies to a court of general jurisdiction  
 21 in the county in which the home office of the association is located for the  
 22 appointment of a conservator court may appoint a conservator if it finds that the  
 23 association:

- 24 (a) Is in an impaired condition, or
- 25 (b) Is in violation of an order or injunction, as authorized by this section, which
- 26 has become final in that the time to appeal has expired without appeal, or a
- 27 final order entered from which there can be no appeal.

- 1 (2) The commissioner~~[executive director]~~, the commissioner's~~[his]~~ examiner, or  
 2 another person may be appointed by the court as conservator, and a certified copy of  
 3 the order of the court making the appointment shall be evidence thereof. The  
 4 conservator shall have the power and authority provided in this subtitle and such  
 5 other power and authority as is expressed in the order of the court. The conservator  
 6 shall endeavor promptly to remedy the situations complained of in the petition for  
 7 his or her appointment.
- 8 (3) Within six (6) months of the date of the appointment, or within twelve (12) months  
 9 if the court extends the six (6) months' period, the association shall be returned to its  
 10 board of directors and thereafter shall be managed and operated as if no conservator  
 11 had been appointed, or a receiver shall be appointed as provided in KRS 286.5-760.
- 12 (4) If the commissioner~~[executive director]~~, or examiner, is appointed conservator he  
 13 or she shall receive no additional compensation, but if another person is appointed,  
 14 then the compensation of the conservator, as determined by the court, shall be paid  
 15 by the association.
- 16 (5) A certified copy of the order of the court discharging the conservator and returning  
 17 such association to its directors shall be sufficient evidence thereof.
- 18 (6) Any conservator appointed shall have all the rights, powers, and privileges  
 19 possessed by the officers, board of directors, and members of the association.
- 20 (7) The conservator shall not retain special counsel or other experts, incur any expense  
 21 other than normal operating expenses, or liquidate assets except in the ordinary  
 22 course of operations.
- 23 (8) The directors and officers shall remain in office and the employees shall remain in  
 24 their respective positions, but the conservator may remove any director, officer, or  
 25 employee, if the order of removal of a director or officer is approved in writing by  
 26 the commissioner~~[executive director]~~.
- 27 (9) While the association is in the charge of a conservator, members of such association

1 shall continue to make payments to the association in accordance with the terms and  
 2 conditions of their contracts, and the conservator, in his discretion, may permit  
 3 savings account members to withdraw their accounts, from the association pursuant  
 4 to the provisions of this subtitle or under such rules and regulations as the  
 5 commissioner~~executive director~~ may prescribe. The conservator shall have power  
 6 to accept savings accounts and additions to savings accounts, but any amounts  
 7 received by the conservator may be segregated if the commissioner~~executive~~  
 8 ~~director~~ so orders in writing; if so ordered, such amounts shall not be subject to  
 9 offset and shall not be used to liquidate any indebtedness of such association  
 10 existing at the time the conservator was appointed for it or any subsequent  
 11 indebtedness incurred for the purposes of liquidating the indebtedness of any such  
 12 association existing at the time such conservator was appointed. All expenses of the  
 13 association during such conservatorship shall be paid by the association.

14 ➔Section 708. KRS 286.5-760 is amended to read as follows:

15 (1) If in the judgment of the commissioner~~executive director~~ the public interest  
 16 requires it, he may apply to a court of general jurisdiction in the county in which the  
 17 home office of any association is located for the appointment of a receiver. Such  
 18 court is authorized to appoint a receiver if it finds that such association:

19 (a) Is in an impaired condition; or

20 (b) Is in violation of an order or injunction, as provided in KRS 286.5-740 and  
 21 286.5-750, which has become final in that the time to appeal has expired  
 22 without appeal or a final order entered from which there can be no appeal. The  
 23 commissioner~~executive director~~, an examiner or other person may be  
 24 appointed by the court as receiver, and a certified copy of the order of the  
 25 court making such appointment shall be evidence thereof. Such receiver shall  
 26 have all the powers and authority of a conservator, plus the power to liquidate,  
 27 and shall have such other powers and authority as may be expressed in the

1 order of the court. If the commissioner~~[executive director]~~ or an examiner is  
 2 appointed receiver, he shall receive no additional compensation, but if another  
 3 person is appointed, then the compensation of the receiver, as determined by  
 4 the court, shall be paid from the assets of the association.

5 (2) If the association is an institution insured by the Federal Savings and Loan  
 6 Insurance Corporation, the Federal Savings and Loan Insurance Corporation shall  
 7 be tendered appointment as receiver or coreceiver. If it accepts such appointment, it  
 8 may, nevertheless, make loans on the security of or purchase at public or private  
 9 sale any part or all of the assets of the association of which it is receiver or  
 10 coreceiver, provided such loan or purchase is approved by the court.

11 (3) The procedure in such receivership action shall be in all other respects in  
 12 accordance with the practice in the court, including all rights of appeal and review.  
 13 The directors, officers and attorneys of an association in office at the time of the  
 14 initiation of any proceeding under this or the preceding section are expressly  
 15 authorized to contest any such proceeding and shall be reimbursed for reasonable  
 16 expenses and attorneys' fees by the association or from its assets. Any court having  
 17 any such proceeding before it shall allow and order paid reasonable expenses and  
 18 attorneys' fees for such directors, officers and attorneys.

19 ➔Section 709. KRS 286.5-780 is amended to read as follows:

20 If a controversy arises between the commissioner~~[executive director]~~ and an association  
 21 with respect to any question of law or regulation or with respect to any question involving  
 22 immeasurable or irreparable damage to the association, prior to an administrative or  
 23 judicial hearing, the association or the commissioner~~[executive director]~~ may apply to  
 24 any court of competent jurisdiction of the county in which the home office of the  
 25 association is located for a declaratory judgment as to such question, and such court shall  
 26 decide the controversy on its merits in accordance with the weight of the evidence, and  
 27 such court shall have full power to enforce its orders.

1       ➔Section 710. KRS 286.5-790 is amended to read as follows:

2       The commissioner~~[executive director]~~ shall compile the reports of all associations  
3       required to be filed in the department~~[his office]~~ and shall present the reports, together  
4       with such additional information concerning associations as may be of general interest, in  
5       his annual report to the Governor.

6       ➔Section 711. KRS 286.5-800 is amended to read as follows:

7       Excepting banks, no association or foreign association or any other person shall advertise  
8       or represent or accept or offer to accept any savings accounts in this state as insured  
9       accounts or as savings accounts of an insured institution unless the same are insured as  
10      provided in KRS 286.5-081, and any violation of this provision shall be a separate  
11      offense for each day of such violation and shall be a misdemeanor and shall be enjoined  
12      upon the application of the Attorney General, the commissioner~~[executive director]~~ or  
13      other state prosecuting official, or by any association in this state.

14      ➔Section 712. KRS 286.5-910 is amended to read as follows:

15      (1) Any savings and loan association holding company which proposes to acquire  
16      control of a Kentucky state chartered savings and loan association, or of a savings  
17      and loan association holding company which controls a Kentucky state chartered  
18      savings and loan association, shall concurrently file with the  
19      commissioner~~[executive director]~~ copies of the application filed with the applicable  
20      federal supervisory authority. The commissioner~~[executive director]~~ shall approve  
21      such acquisition within ninety (90) days of acceptance of a complete application if  
22      he or she finds that:

23      (a) The terms of the acquisition are in accordance with the laws of this state;

24      (b) The financial condition, or the competence, experience and integrity of the  
25      acquiring company or its principals are such as will not jeopardize the  
26      financial stability of the acquired savings and loan association or savings and  
27      loan association holding company;

- 1 (c) The public convenience and advantage will be served by the acquisition; and
- 2 (d) No federal regulatory authority whose approval is required has disapproved
- 3 the transaction because it would result in a monopoly or substantially lessen
- 4 competition, or has otherwise disapproved the transaction.
- 5 (2) A nonrefundable fee shall accompany each application and shall be set by the
- 6 commissioner~~executive director~~ in accordance with the fee-setting principles set
- 7 out in KRS 286.3-480.
- 8 (3) The commissioner~~executive director~~ may enter into cooperative agreements with
- 9 federal or state regulatory authorities to examine an out-of-state savings and loan
- 10 association that is controlled by a savings and loan association holding company
- 11 having its principal place of business in this state, or accept reports of examinations
- 12 of such out-of-state regulatory authorities in lieu of conducting examinations.
- 13 (4) The commissioner~~executive director~~ may enter into cooperative agreements with
- 14 federal or state regulatory authorities to exchange confidential information and
- 15 reports of examination relating to interstate acquisitions of savings and loan
- 16 associations and savings and loan association holding companies.
- 17 (5) The cost of an examination shall be assessed against and paid by the savings and
- 18 loan association or savings and loan association holding company examined. The
- 19 assessment for the examination shall be calculated in the same manner as that used
- 20 for savings and loan association examinations.
- 21 ➔Section 713. KRS 286.5-991 is amended to read as follows:
- 22 (1) Any person who violates any provision of subsection (2) of KRS 286.5-041 shall be
- 23 fined not more than five thousand dollars (\$5,000), and each day of violation
- 24 constitutes a separate offense.
- 25 (2) Any person guilty of conduct for which civil liability is provided for by subsection
- 26 (1) of KRS 286.5-231 shall be punished in the manner prescribed for stealing
- 27 property of the same value as the property so used, disposed of, assigned,



1 transferred or canceled.

2 (3) Every association, officer, agent or manager that fails to make the report required by  
3 KRS 286.5-131, and to furnish any information called for by the  
4 commissioner~~executive director~~ under oath and attestation of its officers shall be  
5 severally fined not less than one hundred dollars (\$100).

6 (4) The president and secretary of any association that fails to make and file any report  
7 required by this subtitle within thirty (30) days after it is due, shall be fined not  
8 more than one hundred dollars (\$100).

9 (5) Any examiner who violates subsection (3) of KRS 286.5-710 shall be fined not less  
10 than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

11 (6) Any examiner in the office who knows of the insolvency or unsafe condition of any  
12 association, or knows that it is inexpedient to permit an association to continue  
13 business, and who neglects to immediately present a signed report of that fact to the  
14 commissioner~~executive director~~, or who illegally discloses any information  
15 obtained by him or her by virtue of his or her office, or who violates any of the  
16 provisions of this subtitle or fails to perform any duty imposed upon him by this  
17 subtitle except as provided in subsection (5), shall be fined not less than one  
18 hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each  
19 offense.

20 (7) Any commissioner~~executive director~~ who knows of the insolvency or unsafe  
21 condition of any association or knows that it is inexpedient to permit an association  
22 to continue business, and who willfully fails to take the action provided in this  
23 subtitle, or who illegally discloses any information obtained by him or her by virtue  
24 of his or her office, or violates any of the provisions of this subtitle, or fails to  
25 perform any duty imposed upon him or her by this subtitle, shall forfeit ~~the~~<sup>his</sup>  
26 office and be fined not less than five hundred dollars (\$500) nor more than five  
27 thousand dollars (\$5,000) for each offense.

1 (8) Except as provided in subsection (3), any association which knowingly fails to  
 2 make any report required by law or by the commissioner~~executive director~~ within  
 3 the specified time, or to include any matter required, or to pay the fees for filing  
 4 reports or for examinations when due, shall be fined twenty-five dollars (\$25) for  
 5 each day of delinquency. The aggregate penalty for each offense shall not exceed  
 6 two hundred and fifty dollars (\$250).

7 (9) Every person or association that willfully makes or transmits a false report, or  
 8 refuses to submit its books, papers or assets for examination, or any officer of an  
 9 association who refuses to be examined under oath concerning the affairs of the  
 10 association, shall severally be fined not less than one hundred dollars (\$100) nor  
 11 more than five hundred dollars (\$500).

12 (10) Whenever any penalty imposed by this section is not paid, the Attorney General  
 13 shall institute an action, in the name of the state, in the Franklin Circuit Court or the  
 14 Circuit Court of the county in which the offense was committed, for the recovery of  
 15 the penalty.

16 (11) Any association that violates KRS 286.5-805 by not carrying the required statement,  
 17 or by carrying a statement that an application for insurance is pending when in fact  
 18 it is not, shall be fined five hundred dollars (\$500) for each offense.

19 ➔Section 714. KRS 286.6-005 is amended to read as follows:

20 As used in this subtitle, unless the context otherwise requires:

21 (1) "Credit union" means a cooperative, nonprofit association, incorporated under this  
 22 subtitle, for the purposes of encouraging thrift among its members, creating a source  
 23 of credit at a fair and reasonable rate of interest, and providing an opportunity for its  
 24 members to use and control their own money on a democratic basis in order to  
 25 improve their economic and social condition.

26 (2) "Commissioner~~Executive director~~" means the commissioner~~executive director~~  
 27 of financial institutions.

1        ➔ Section 715. KRS 286.6-012 is amended to read as follows:

2        Any party aggrieved by a decision of the commissioner~~[executive director]~~ under the  
3        provisions of KRS 286.6-015, 286.6-035, 286.6-055, 286.6-065, 286.6-700, or 286.6-710  
4        may request an administrative hearing which shall be conducted in accordance with KRS  
5        Chapter 13B.

6        ➔ Section 716. KRS 286.6-015 is amended to read as follows:

- 7        (1) Any seven (7) or more residents of this state, of legal age, who have a common  
8        bond referred to in KRS 286.6-107 may organize a credit union and become charter  
9        members thereof by complying with this section.
- 10       (2) The subscribers shall execute in duplicate articles of incorporation and agree to the  
11       terms thereof, which articles shall state:
  - 12       (a) The name, which shall include the words "credit union" and which shall not  
13       be the same as that of any other credit union in this state, and the location  
14       where the proposed credit union is to have its principal place of business;
  - 15       (b) That the existence of the credit union shall be perpetual;
  - 16       (c) The par value of the shares of the credit union; and
  - 17       (d) The names and addresses of the subscribers to the articles of incorporation,  
18       and the number of shares subscribed to by each, which shall be determined by  
19       the board.
- 20       (3) The subscribers shall prepare and adopt bylaws for the general government of the  
21       credit union, consistent with this subtitle, and execute the same in duplicate.
- 22       (4) The subscribers shall select at least five (5) qualified persons who agree to serve on  
23       the board of directors, and at least three (3) other qualified persons who agree to  
24       serve on the supervisory committee. A signed agreement to serve in these capacities  
25       until the first annual meeting or until the election of their successors, whichever is  
26       later, shall be executed by those who so agree.
- 27       (5) The subscribers shall forward any required fee, the articles of incorporation, the

1 bylaws and the agreements to serve to the commissioner~~[executive-director]~~, who  
 2 shall act upon the application for a charter within thirty (30) days. The  
 3 commissioner~~[executive-director]~~ shall issue a certificate of approval, if the articles  
 4 and bylaws are in conformity with this subtitle and the commissioner~~[he]~~ is  
 5 satisfied that:

6 (a) The characteristics of the sponsoring group are favorable to the economic  
 7 viability of such credit union;

8 (b) The standing and character of the proposed organizers are such as to give  
 9 assurance that its affairs will be properly administered; and

10 (c) The share and deposit insurance requirements of KRS 286.6-405 will be met.

11 (6) The commissioner~~[executive-director]~~ shall return a copy of the bylaws and the  
 12 articles to the applicants or their representatives, which shall be preserved in the  
 13 permanent files of the credit union.

14 (7) The subscribers for a credit union charter may not transact any business until formal  
 15 approval of the charter has been received.

16 ➔Section 717. KRS 286.6-025 is amended to read as follows:

17 In order to simplify the organization of credit unions, the commissioner~~[executive~~  
 18 ~~director]~~ shall cause to be prepared a form of articles of incorporation and a form of  
 19 bylaws, consistent with this subtitle, which may be used by credit union incorporators for  
 20 their guidance. Such articles of incorporation and bylaws shall be available without  
 21 charge to persons desiring to organize a credit union.

22 ➔Section 718. KRS 286.6-035 is amended to read as follows:

23 (1) The articles of incorporation or the bylaws may be amended as provided in the  
 24 bylaws. Amendments to the articles of incorporation or bylaws shall be submitted to  
 25 the commissioner~~[executive-director]~~ who shall approve or disapprove the  
 26 amendments within sixty (60) days.

27 (2) Amendments shall become effective upon approval in writing by the

1 commissioner~~[executive director]~~.

2 ➔Section 719. KRS 286.6-055 is amended to read as follows:

3 (1) A credit union may change its principal place of business within this state upon  
4 written authorization by the commissioner~~[executive director]~~. If the  
5 commissioner~~[executive director]~~ has not notified a credit union of his or her action  
6 on an application to change the place of business within fifteen (15) calendar days  
7 of the date the application was received by the commissioner~~[executive director]~~,  
8 the credit union may proceed with the change in its place of business.

9 (2) A credit union may maintain service facilities, including automated teller machines,  
10 at locations other than its principal office upon written authorization by the  
11 commissioner~~[executive director]~~ or as permitted by administrative regulation. The  
12 maintenance of these facilities must be reasonably necessary to furnish service to its  
13 members.

14 (3) A credit union may join with one (1) or more credit unions in the operation of a  
15 service facility to meet member needs, including an automated teller machine, upon  
16 written authorization by the commissioner~~[executive director]~~ or as permitted by  
17 administrative regulation.

18 ➔Section 720. KRS 286.6-065 is amended to read as follows:

19 (1) A credit union organized in another state may conduct business as a credit union in  
20 this state with the approval of the commissioner~~[executive director]~~. The  
21 commissioner~~[executive director]~~ shall find that the out-of-state credit union:

- 22 (a) Is a credit union organized under laws similar to this subtitle;
- 23 (b) Is financially solvent;
- 24 (c) Has account insurance comparable to that required for credit unions  
25 incorporated under this subtitle;
- 26 (d) Is effectively examined and supervised by the supervisory authority of the  
27 state in which it is organized; and

1 (e) Needs to conduct business in this state to adequately serve its members in this  
2 state.

3 (2) The out-of-state credit union shall agree to:

4 (a) Grant loans at rates not in excess of the rates permitted for credit unions  
5 incorporated under this subtitle;

6 (b) Comply with the same consumer protection provisions that credit unions  
7 incorporated under this subtitle must obey;

8 (c) Designate and maintain an agent for the service of process in this state; and

9 (d) Submit copies of reports to the commissioner~~executive director~~ when  
10 requested.

11 (3) The commissioner~~executive director~~ may examine the out-of-state credit union or  
12 enter into cooperative or reciprocal agreements with the out-of-state credit union's  
13 regulatory authority for periodic examinations.

14 ➔Section 721. KRS 286.6-070 is amended to read as follows:

15 Credit unions shall be under the supervision of the commissioner~~executive director~~,  
16 who may make general rules and regulations, and special rulings, demands and findings  
17 necessary for the proper conduct and regulation of the business. Such action by the  
18 commissioner~~executive director~~ shall be in addition to and not in conflict with the  
19 provisions of this subtitle.

20 ➔Section 722. KRS 286.6-075 is amended to read as follows:

21 A credit union organized under this subtitle may:

22 (1) Make contracts;

23 (2) Sue and be sued;

24 (3) Adopt and use a common seal and alter same;

25 (4) Acquire, lease, hold, assign, pledge, hypothecate, sell and otherwise dispose of  
26 property, either in whole or in part, necessary or incidental to its operations;

27 (5) Offer its members and other credit unions various classes of shares, share

- 1 certificates, deposits or deposit certificates, upon written authorization of the  
 2 commissioner~~[executive director]~~;
- 3 (6) Lend its funds to its members as hereinafter provided;
- 4 (7) Borrow from any source provided that a credit union must secure approval from the  
 5 commissioner~~[executive director]~~ in writing of its intention to borrow in excess of  
 6 an aggregate of forty percent (40%) of its capital;
- 7 (8) Discount or sell any of its assets, and purchase the assets of another credit union,  
 8 subject to the approval of the commissioner~~[executive director]~~;
- 9 (9) Make deposits in legally chartered banks, savings banks, savings and loan  
 10 associations, trust companies, and other credit unions, including corporate credit  
 11 unions, and invest funds as otherwise provided in KRS 286.6-585;
- 12 (10) Hold membership in other credit unions organized under this subtitle or other acts,  
 13 and in associations and organizations controlled by or fostering the interests of  
 14 credit unions, including a central liquidity facility organized under state or federal  
 15 law;
- 16 (11) Engage in activities and programs as requested by the federal government or by this  
 17 state or any agency or political subdivision thereof, when approved by the  
 18 commissioner~~[executive director]~~ and not inconsistent with this subtitle; and
- 19 (12) Act as fiscal agent for and receive payments on shares and deposits from the federal  
 20 government, this state, or any agency or political subdivision thereof.

21 ➔ Section 723. KRS 286.6-090 is amended to read as follows:

22 Each credit union shall make a report of its condition to the commissioner~~[executive~~  
 23 ~~director]~~, on blank forms to be supplied by the Department~~[Office]~~ of Financial  
 24 Institutions on the dates of the calls made to state banks. Notice of the calls shall be sent  
 25 out by the commissioner~~[executive director]~~. The reports shall be verified by the oath of  
 26 a majority of the members of the supervisory committee, or by the oath of the president  
 27 and treasurer or secretary, and further reports shall be made as the

1 commissioner~~[executive director]~~ at any time demands.

2 ➔Section 724. KRS 286.6-092 is amended to read as follows:

- 3 (1) If any credit union fails to make the report prescribed by KRS 286.6-090 within  
 4 fifteen (15) days after it is due, or fails to pay the charges required by this subtitle,  
 5 including the charges for delay in filing reports, the commissioner~~[executive~~  
 6 ~~director]~~ shall give notice to the credit union of his intention to revoke the  
 7 certificate of approval of the corporation. If failure continues for fifteen (15) days  
 8 after the notice, the commissioner~~[executive director]~~ may, in his discretion, revoke  
 9 the certificate of approval and take possession of the property and business of the  
 10 credit union until such time as the commissioner~~[executive director]~~ permits it to  
 11 resume business, or until its affairs are liquidated.
- 12 (2) If the commissioner~~[executive director]~~ has knowledge or reasonable cause to  
 13 believe that any credit union, or any director, officer, employee, agent, or other  
 14 person participating in the conduct of the affairs of the credit union has engaged in  
 15 violations of law, or charter, bylaw, or administrative regulation of the  
 16 department~~[office]~~, or in unsafe or unsound business practices, or a breach of any  
 17 written agreement with the department~~[office]~~, the commissioner~~[he]~~ may issue  
 18 and serve upon the credit union, director, officer, employee, agent, or other person a  
 19 notice of charges containing a statement of facts with respect to alleged violations  
 20 or practices and shall fix the time and place at which an administrative hearing shall  
 21 be held to determine whether an order to cease and desist should issue against the  
 22 credit union, director, officer, employee, agent, or other person. The hearing shall be  
 23 conducted in accordance with KRS Chapter 13B.
- 24 (3) Unless the party or parties so served shall appear at the hearing personally or by a  
 25 duly-authorized representative, they shall be deemed to have consented to the  
 26 issuance of the cease and desist order.
- 27 (4) If there is consent, or if upon the record made at any hearing the



1 commissioner~~[executive director]~~ shall find that any violation or unsafe or unsound  
 2 practice specified in the notice of charges has been established, the  
 3 commissioner~~[he]~~ may issue and serve upon the credit union, director, officer,  
 4 employee, agent, or other person a final order to cease and desist from any violation  
 5 or practice and, further, to take affirmative action to correct the conditions resulting  
 6 from any violation or practice.

7 (5) If the commissioner~~[executive director]~~ shall determine that the violation or  
 8 practice, as specified in the notice of charges pursuant to subsection (2) of this  
 9 section, or the continuation thereof, is likely to cause insolvency or substantial  
 10 dissipation of assets or earnings of the credit union, or is likely to otherwise  
 11 seriously prejudice the interests of its members, the commissioner~~[he]~~ may issue an  
 12 emergency order pursuant to KRS 13B.125 requiring the credit union, director,  
 13 officer, employee, agent, or other person to immediately upon service cease and  
 14 desist from any violation or practice.

15 (6) Unless set aside, limited, or suspended, as provided by subsection (7) of this  
 16 section, an emergency cease and desist order shall remain effective and enforceable  
 17 pending completion of the administrative hearing.

18 (7) Within ten (10) days after service of an emergency cease and desist order, the party  
 19 or parties served may apply to the Circuit Court of the residence of the individual or  
 20 of the principal office of the credit union for an injunction setting aside, limiting, or  
 21 suspending the enforcement, operation, or effectiveness of the order pending  
 22 completion of an administrative hearing, and the court shall have jurisdiction to  
 23 issue an injunction.

24 (8) In the case of violation or threatened violation of, or failure to obey, an emergency  
 25 cease and desist order or a cease and desist order issued pursuant to this section, the  
 26 commissioner~~[executive director]~~ may apply to the Circuit Court of the residence of  
 27 the individual or of the principal office of the credit union for an injunction to

1 enforce the order, and it shall be the duty of the court to issue the injunction.

2 ➔Section 725. KRS 286.6-095 is amended to read as follows:

3 Notwithstanding any other provision of law, the commissioner~~[executive director]~~ may  
4 make reasonable rules authorizing credit unions to exercise any of the powers conferred  
5 upon federal credit unions, if the commissioner~~[he]~~ deems it reasonably necessary for the  
6 well-being of such credit unions.

7 ➔Section 726. KRS 286.6-100 is amended to read as follows:

8 (1) Credit unions shall be under the supervision of the commissioner~~[executive~~  
9 ~~director]~~ and shall make financial reports to the commissioner~~[him]~~ as and when he  
10 or she may require, but at least annually. Each credit union shall be subject to  
11 examination by, and for this purpose shall make its books and records accessible to,  
12 any person designated by the commissioner~~[executive director]~~. The  
13 commissioner~~[executive director]~~ shall fix a scale of examination fees to be paid by  
14 credit unions, giving due consideration to the time and expense incident to such  
15 examinations and to the ability of credit unions to pay such fees, which fees shall be  
16 assessed and paid by each credit union promptly after completion of such  
17 examination.

18 (2) In lieu of the examination provided for in this section, the commissioner~~[executive~~  
19 ~~director]~~ may accept any examination made by the national credit union  
20 administration. One (1) copy of the examination report shall be promptly submitted  
21 to the commissioner~~[executive director]~~ for processing and analysis by the  
22 Department~~[Office]~~ of Financial Institutions.

23 (3) When, in the judgment of the commissioner~~[executive director]~~, the condition of  
24 any credit union organized under the provisions of this subtitle renders it necessary  
25 or expedient to make an examination or to devote any extraordinary attention to its  
26 affairs, the commissioner~~[executive director]~~ shall cause such work to be done. A  
27 full and complete copy of the report of all examinations shall be furnished to the

1 credit union so examined. Such report of examination shall be presented by the  
2 president to the board of directors at its next regular or special meeting.

3 ➔Section 727. KRS 286.6-105 is amended to read as follows:

4 In undertaking the examination of any credit union, neither the Commonwealth of  
5 Kentucky, the commissioner~~[executive-director]~~ of the Department~~[Office]~~ of Financial  
6 Institutions, nor any examiner employed by the Commonwealth shall become liable to  
7 any depositor, investor, or other obligor of said credit union by reason of said  
8 examination or omission of said examination to fully and effectively disclose the  
9 financial condition of said credit union, it being the policy of the Commonwealth of  
10 Kentucky that such examinations as are required by KRS 286.6-100 are for the purpose of  
11 determining compliance with state law and not for the purpose of protecting or  
12 guaranteeing the depositors, investors or other obligors of said credit unions.

13 ➔Section 728. KRS 286.6-165 is amended to read as follows:

14 Within fifteen (15) days after election or appointment, a record of the names and  
15 addresses of the members of the board, committees and all officers of the credit union  
16 shall be filed with the commissioner~~[executive-director]~~ on forms provided by the  
17 department~~[office]~~.

18 ➔Section 729. KRS 286.6-185 is amended to read as follows:

- 19 (1) A credit union has a special obligation of confidentiality to its members; therefore,  
20 any contrary provisions of KRS Chapter 271B notwithstanding, a credit union shall  
21 be obligated to provide a shareholder only names and addresses of its member  
22 shareholders.
- 23 (2) No officer or director of a credit union or employee of the department~~[office]~~ shall  
24 release any information contained in the report of examination, except so far as  
25 necessary in the performance of his official duties as provided by law.
- 26 (3) The department~~[office]~~ may furnish to and exchange information and reports with  
27 officials and examiners of other properly authorized state or federal regulatory

1 authorities.

- 2 (4) Every official report concerning a credit union and every report of an examination  
3 shall be prima facie evidence of the facts therein stated for all purposes in any  
4 action in which the department~~[office]~~ or credit union is a party. Such reports shall  
5 not be made public except when required in proper legal proceedings.

6 ➔Section 730. KRS 286.6-285 is amended to read as follows:

- 7 (1) Unless the credit union has been audited by a licensed public accountant or other  
8 qualified person or firm, the supervisory committee shall make or cause to be made  
9 a comprehensive annual audit of the books and affairs of the credit union. It shall  
10 submit a report of each annual audit to the board of directors and the  
11 commissioner~~[executive director]~~ and a summary of that report to the members at  
12 the next annual meeting of the credit union.

- 13 (2) The supervisory committee shall make or cause to be made such supplementary  
14 audits, examinations or verifications of members' accounts as it deems necessary or  
15 as are required by the commissioner~~[executive director]~~ or by the board of  
16 directors, and submit reports of these supplementary audits to the board of directors.

17 ➔Section 731. KRS 286.6-296 is amended to read as follows:

- 18 (1) The supervisory committee by a unanimous vote may suspend any member of the  
19 credit committee and shall report such action to the board of directors for  
20 appropriate action.
- 21 (2) The supervisory committee by a unanimous vote may suspend any officer or  
22 member of the board of directors until the next members' meeting, which shall be  
23 held not less than seven (7) nor more than twenty-one (21) days after such  
24 suspension. At such meeting the suspension shall be acted upon by the members.
- 25 (3) Any member of the supervisory committee may be removed by the board of  
26 directors for failure to perform his duties in accordance with this subtitle, the  
27 articles of incorporation, or the bylaws.

- 1 (4) If the commissioner~~[executive director]~~ shall determine that any officer or director  
 2 of a credit union has committed any violation of law, administrative regulation or of  
 3 a cease and desist order which has become final, or has engaged in or participated in  
 4 any unsafe or unsound practice in connection with the credit union, or has  
 5 committed or engaged in any act, omission, or practice which constitutes a breach  
 6 of his fiduciary duty as such officer or director, and the commissioner~~[executive~~  
 7 ~~director]~~ determines that the credit union has suffered or will probably suffer  
 8 substantial financial loss or other damages or that the interests of its members could  
 9 be seriously prejudiced by reason of such violation or practice or breach of fiduciary  
 10 duty, or that the director or officer has received financial gain by reason of the  
 11 violation or practice or breach of fiduciary duty, the commissioner~~[executive~~  
 12 ~~director]~~ may serve upon such director or officer a written notice of intention to  
 13 remove him or her from office. The violation, practice or breach must be one  
 14 involving personal dishonesty on the part of such director or officer, or one which  
 15 demonstrates a willful or continuing disregard for the safety or soundness of the  
 16 credit union. The written notice shall serve to suspend the officer or director from  
 17 office. Such suspension shall become effective upon service of such notice and,  
 18 unless stayed by a court in proceedings authorized by subsection (6) of this section,  
 19 shall remain in effect pending the completion of the administrative proceedings  
 20 under subsection (5) of this section and until such time as the  
 21 commissioner~~[executive director]~~ shall dismiss the charges specified in such notice  
 22 or, if an order of removal is issued against the officer or director, the effective date  
 23 of any such order.
- 24 (5) A notice of intention to remove an officer or director from office shall contain a  
 25 statement of the facts constituting grounds therefor, and shall fix a time and place at  
 26 which a hearing will be held thereon. Such hearing shall be fixed for a date not  
 27 earlier than thirty (30) days nor later than sixty (60) days after the date of service of

such notice, unless an earlier date is set by the commissioner~~[executive director]~~ at the request of such officer or director and for good cause shown. Unless such officer or director shall appear at the hearing in person or by duly authorized representative, he or she shall be deemed to have consented to the issuance of an order of removal. In the event of such consent, or if upon the record made at any such hearing the commissioner~~[executive director]~~ shall find that any of the grounds specified in such notice have been established, the commissioner~~[executive director]~~ may issue such orders of suspension or removal from office as he or she deems appropriate.

(6) Within ten (10) days after an officer or director has been suspended from office, such officer or director may apply to the Circuit Court of the residence of the individual or of the principal office of the credit union for a stay of such suspension pending the completion of the administrative proceedings pursuant to the notice served upon such officer or director, and such court shall have jurisdiction to grant such stay.

(7) Any person aggrieved by a final order of the commissioner~~[executive director]~~ under subsection (5) of this section may obtain a review of the order by filing in the Circuit Court of the residence of the individual or of the principal office of the credit union a petition of appeal within ten (10) days after the rendition of a final order. A copy of the petition shall be served upon the commissioner~~[executive director]~~ and thereupon the commissioner~~[executive director]~~ or the commissioner's~~[his]~~ agent shall certify and file in court a copy of the record or other evidence upon which the order is entered. No objection to the order may be considered by the court unless it was argued before the commissioner~~[executive director]~~ or there were reasonable grounds for failure to do so.

(8) The commissioner~~[executive director]~~ may apply to the Circuit Court of the residence of the individual or of the principal office of the credit union for an injunction to enforce any order under subsection (5) of this section and it shall be

1 the duty of the court to issue such injunction.

2 ➔Section 732. KRS 286.6-325 is amended to read as follows:

- 3 (1) At such intervals and for such periods as the board of directors may authorize, and  
 4 after provision for the required reserves, the board of directors may declare  
 5 dividends to be paid on shares and share certificates from net earnings. Prior  
 6 approval of the commissioner~~executive director~~ shall be required for the payment  
 7 of dividends in excess of net earnings, except that if the excess is less than one  
 8 percent (1%) of undivided earnings prior approval shall not be required.

- 9 (2) Dividends may be paid at various rates, or not paid at all, with due regard to the  
 10 conditions that pertain to each class of share.

11 ➔Section 733. KRS 286.6-335 is amended to read as follows:

12 A credit union may offer deposits and deposit certificates to its members and other credit  
 13 unions, subject to such terms, rates and conditions as the board of directors establishes  
 14 and any regulations the commissioner~~executive director~~ may prescribe.

15 ➔Section 734. KRS 286.6-345 is amended to read as follows:

16 Christmas clubs and vacation clubs may be operated under conditions established by the  
 17 board of directors, and other special purpose share and deposit accounts may be operated  
 18 with authorization from the commissioner~~executive director~~.

19 ➔Section 735. KRS 286.6-355 is amended to read as follows:

- 20 (1) Shares, share certificates, deposits, and deposit certificates may be withdrawn for  
 21 payment to the account holder or to third parties, in such manner and in accordance  
 22 with such procedures as may be established by the board of directors, subject to  
 23 approval by the commissioner~~executive director~~. The board may restrict one (1)  
 24 class of share so it may not be redeemed, withdrawn or transferred except upon  
 25 termination of membership in the credit union.

- 26 (2) Shares, share certificates, deposits, and deposit certificates shall be subject to any  
 27 withdrawal notice requirement which may be imposed pursuant to the bylaws.

➔Section 736. KRS 286.6-405 is amended to read as follows:

- (1) Not later than December 31, 1984, a credit union shall apply for insurance on shares and deposits as provided by the national credit union administration under Title II of the Federal Credit Union Act (12 U.S.C. secs. 1781 et seq.), or alternatively, a form of comparable insurance approved by the commissioner~~[executive director]~~. This requirement does not apply to a credit union with debt and equity capital consisting primarily of funds from other credit unions.
- (2) A credit union which has been denied a commitment for such insurance shall within thirty (30) days commence steps to either liquidate, or merge with an insured credit union, or apply in writing to the commissioner~~[executive director]~~ for additional time to obtain an insurance commitment. The commissioner~~[executive director]~~ may grant one (1) or more extensions of time to obtain the insurance commitment upon satisfactory evidence that the credit union has made or is making substantial effort to achieve the conditions precedent to issuance of the commitment.
- (3) No credit union shall be granted a charter by the commissioner~~[executive director]~~ unless such credit union has obtained a commitment for insurance of its member share and deposit accounts.
- (4) The commissioner~~[executive director]~~ may make available reports of condition and examination findings to the National Credit Union Administration or to any qualified insuring organization and may accept any report of examination made on behalf of such agency or organizations. The commissioner~~[executive director]~~ may appoint an official of the National Credit Union Administration or of any qualified insuring organization as liquidating agent of an insured credit union.

➔Section 737. KRS 286.6-575 is amended to read as follows:

- (1) A credit union may act as trustee or custodian of:
  - (a) Individual retirement accounts authorized by federal or state law;
  - (b) Pension funds of self-employed individuals or of a company or organization



1 sponsoring the credit union; or

2 (c) Other similar retirement or pension plans, with authorization from the  
3 commissioner~~[executive director]~~.

4 (2) A credit union may act as trustee under pension and profit-sharing plans with  
5 authorization from the commissioner~~[executive director]~~.

6 ➔Section 738. KRS 286.6-585 is amended to read as follows:

7 Funds not used in loans to members may be invested:

8 (1) In securities, obligations, or other instruments of or issued by or fully guaranteed as  
9 to principal and interest by the United States of America or any agency thereof or in  
10 any trust or trusts established for investing directly or collectively in the same;

11 (2) In obligations of any state of the United States, the District of Columbia, the  
12 Commonwealth of Puerto Rico, and the several territories organized by Congress,  
13 or any political subdivision thereof;

14 (3) In certificates of deposit or passbook-type accounts issued by a state or national  
15 bank, mutual savings bank, or savings and loan association;

16 (4) (a) In loans, not to exceed twenty-five percent (25%) of capital at the lending  
17 credit union, to; or

18 (b) In shares or deposits, not to exceed twenty percent (20%) of the capital of the  
19 investing credit union, of other credit unions, central credit unions, corporate  
20 credit unions, or a central liquidity facility established under state or federal  
21 law;

22 (5) In shares, stocks, loans, or other obligations of any organization, corporation, or  
23 association, provided the membership or ownership, as the case may be, of the  
24 organization, corporation, or association is primarily confined or restricted to credit  
25 unions, or organizations of credit unions, and provided further the purpose for  
26 which it is organized is to strengthen or advance the development of credit unions  
27 or credit union organizations;

1 (6) In shares of a cooperative society organized under the laws of this state or of the  
 2 laws of the United States in the total amount not exceeding ten percent (10%) of the  
 3 shares, deposits, and surplus of the credit union;

4 (7) In stocks and bonds of corporations organized in any state of the United States, the  
 5 District of Columbia, the Commonwealth of Puerto Rico and the several territories  
 6 organized by Congress to an aggregate maximum of five percent (5%) of members'  
 7 shares in stocks and an aggregate maximum of five percent (5%) of members'  
 8 shares in bonds, provided that investments shall be limited to stocks or bonds which  
 9 appear on a list approved by the commissioner~~[executive director]~~ and published  
 10 quarterly or annually, the list to include not less than thirty (30) corporations.

11 →Section 739. KRS 286.6-605 is amended to read as follows:

12 The regular reserve shall belong to the credit union and shall be used to meet losses  
 13 resulting from loans and risk assets and to meet such other losses as are approved by the  
 14 commissioner~~[executive director]~~ and shall not be distributed except on liquidation of the  
 15 credit union, or in accordance with a plan approved by the commissioner~~[executive~~  
 16 ~~director]~~.

17 →Section 740. KRS 286.6-615 is amended to read as follows:

18 The commissioner~~[executive director]~~ shall define by regulation what is deemed "risk  
 19 assets" for the purpose of establishing the regular reserve.

20 →Section 741. KRS 286.6-625 is amended to read as follows:

21 In addition to such regular reserve, special reserves to protect the interest of members  
 22 shall be established when required by regulation, or when found by the board of directors  
 23 of the credit union or by the commissioner~~[executive director]~~, in any special case, to be  
 24 necessary for that purpose.

25 →Section 742. KRS 286.6-700 is amended to read as follows:

26 (1) If it appears that any credit union is bankrupt or insolvent, or that it has willfully  
 27 violated this subtitle, or is operating in an unsafe or unsound manner, the

1 commissioner~~[executive director]~~ may issue an order temporarily suspending the  
 2 credit union's operations for not less than thirty (30) nor more than sixty (60) days.  
 3 The board of directors shall be given notice by registered mail of such suspension,  
 4 which notice shall include a list of the reasons for such suspension, or a list of the  
 5 specific violations of this subtitle, or both. The commissioner~~[executive director]~~  
 6 shall also notify any government agency or other organization insuring the accounts  
 7 of the credit union of any suspension.

8 (2) Upon receipt of such suspension notice, the credit union shall cease all operations,  
 9 except those authorized by the commissioner~~[executive director]~~. The board of  
 10 directors shall then file with the commissioner~~[executive director]~~ a reply to the  
 11 suspension notice, and may request a hearing to present a plan of corrective actions  
 12 proposed if it desires to continue operations. The board may request that the credit  
 13 union be declared insolvent and a liquidating agent be appointed.

14 (3) Upon receipt from the suspended credit union of evidence that the conditions  
 15 causing the order of suspension have been corrected, the commissioner~~[executive~~  
 16 ~~director]~~ may revoke the suspension notice, permit the credit union to resume  
 17 normal operations, and notify any interested insuring agency of such action.

18 (4) If the commissioner~~[executive director]~~, after issuing notice of suspension and  
 19 providing an opportunity for a hearing, rejects the credit union's plan to continue  
 20 operations, the commissioner~~[he]~~ may issue a notice of involuntary liquidation and  
 21 appoint a liquidating agent. The credit union may request the appropriate court to  
 22 stay execution of such action. Involuntary liquidation may not be ordered prior to  
 23 the conclusion of suspension procedures outlined in this section.

24 (5) If, within the suspension period, the credit union fails to answer the suspension  
 25 notice or request a hearing, the commissioner~~[executive director]~~ may then revoke  
 26 the credit union's charter, appoint a liquidating agent and liquidate the credit union.

27 ➔Section 743. KRS 286.6-705 is amended to read as follows:

- 1 (1) A credit union may elect to dissolve voluntarily and liquidate its affairs in the  
2 manner prescribed in this section.
- 3 (2) The board of directors shall adopt a resolution recommending the credit union be  
4 dissolved voluntarily, and directing that the question of liquidation be submitted to  
5 the members.
- 6 (3) Within ten (10) days after the board of directors decides to submit the question of  
7 liquidation to the members, the president shall notify the commissioner~~executive~~  
8 ~~director~~ and any government agency or other organization insuring member  
9 accounts thereof in writing, setting forth the reasons for the proposed liquidation.  
10 Within ten (10) days after the members act on the question of liquidation, the  
11 president shall notify the commissioner~~executive director~~ and any government  
12 agency or other organization insuring member accounts in writing as to the action of  
13 the members on the proposal.
- 14 (4) As soon as the board of directors decides to submit the question of liquidation to the  
15 members, payments on shares, share certificates, deposits, deposit certificates,  
16 withdrawal of shares, making any transfer of shares to loans and interest, making  
17 investments of any kind, and granting loans shall be suspended pending action by  
18 members on the proposal to liquidate. On approval by the members of such  
19 proposal, all such business transactions shall be permanently discontinued.  
20 Necessary expenses of operation shall, however, continue to be paid on  
21 authorization of the board of directors or liquidating agent during the period of  
22 liquidation.
- 23 (5) For a credit union to enter voluntary liquidation, approval by a majority of the  
24 members in writing or by a two-thirds (2/3) majority of the members present at a  
25 regular or special meeting of the members is required. Where authorization for  
26 liquidation is to be obtained at a meeting of the members, notice in writing shall be  
27 given to each member, by first class mail, at least ten (10) days prior to such

1 meeting.

2 (6) A liquidating credit union shall continue in existence for the purpose of discharging  
3 its debts, collecting on loans and distributing its assets, and doing all acts required  
4 in order to wind up its business and may sue and be sued for the purpose of  
5 enforcing such debts and obligations until its affairs are fully concluded.

6 (7) The board of directors or the liquidating agent shall use the assets of the credit  
7 union to pay: first, expenses incidental to liquidation including any surety bond that  
8 may be required; second, any liability due non-members; third, deposits and deposit  
9 certificates as provided in this subtitle. Assets then remaining shall be distributed to  
10 the members proportionately to the shares held by each member of the date  
11 dissolution was voted.

12 (8) As soon as the board of directors or the liquidating agent determines that all assets  
13 from which there is a reasonable expectancy of realization have been liquidated and  
14 distributed as set forth in this section, they shall execute a certificate of dissolution  
15 on a form prescribed by the commissioner~~executive director~~ and file it, together  
16 with all pertinent books and records of the liquidating credit union, with the  
17 commissioner~~executive director~~, whereupon such credit union shall be dissolved.

18 ➔Section 744. KRS 286.6-710 is amended to read as follows:

19 (1) Any credit union may, with the approval of the commissioner~~executive director~~,  
20 merge with another credit union under the existing charter of the other credit union,  
21 pursuant to any plan agreed upon by the majority of each board of directors of each  
22 credit union joining in the merger, approved by the affirmative vote of a majority of  
23 the members of the merging credit union present at a meeting of its members duly  
24 called for such purpose, and consented to by any government agency or other  
25 organization insuring the accounts of the credit union.

26 (2) The commissioner~~executive director~~ may approve a merger according to the plan  
27 agreed upon by the majority of the board of directors of each credit union if

1 approved by less than a majority of the entire membership, as provided in this  
 2 section, if the commissioner~~[he]~~ finds upon the written and verified application  
 3 filed by the board of directors that:

4 (a) Notice of the meeting called to consider the merger was mailed to each  
 5 member entitled to vote upon the question;

6 (b) Such notice disclosed the purpose of the meeting and properly informed the  
 7 membership that approval of the merger might be sought pursuant to this  
 8 section; and

9 (c) A majority of the votes cast upon the question were in favor of the merger.

10 (3) After agreement by the directors and approval by the members of the merging credit  
 11 union, the president and secretary of the credit union shall execute a certificate of  
 12 merger, which shall set forth all of the following:

13 (a) The time and place of the meeting of the board of directors at which the plan  
 14 was agreed upon;

15 (b) The vote in favor of the adoption of the plan;

16 (c) A copy of the resolution or other action by which the plan was agreed upon;

17 (d) The time and place of the meeting of the members at which the plan agreed  
 18 upon was approved; and

19 (e) The vote by which the plan was approved by the members.

20 (4) Such certificate and a copy of the plan of merger agreed upon shall be forwarded to  
 21 the commissioner~~[executive director]~~, certified by him, and returned to both credit  
 22 unions within thirty (30) days.

23 (5) Upon return of the certificate from the commissioner~~[executive director]~~, all  
 24 property, property rights, and members' interest of the merged credit union shall  
 25 vest in the surviving credit union without deed, endorsement or other instrument of  
 26 transfer; and all debts, obligations and liabilities of the merged credit union shall be  
 27 deemed to have been assumed by the surviving credit union under whose charter the

merger was effected. The rights and privileges of the members of the merged credit union shall remain intact.

- (6) This section shall be construed, whenever possible, to permit a credit union organized under any other act to merge with one (1) incorporated under this subtitle, or to permit any credit union incorporated under this subtitle to merge with one (1) organized under any other act.

→Section 745. KRS 286.6-715 is amended to read as follows:

- (1) A credit union incorporated under the laws of this state may be converted to a credit union organized under the laws of any other state or under the laws of the United States, subject to regulations issued by the commissioner~~executive director~~.

- (2) A credit union organized under the laws of the United States or of any other state may convert to a credit union incorporated under the laws of this state. To effect such a conversion, a credit union must comply with all the requirements of the jurisdiction under which it was originally organized and the requirements of the commissioner~~executive director~~ and file proof of such compliance with said commissioner~~executive director~~.

→Section 746. KRS 286.6-990 is amended to read as follows:

- (1) Any credit union that fails to make the report required by KRS 286.6-090, when notified, shall pay to the department~~office~~ ten dollars (\$10) for each day of such failure, unless excused.
- (2) Any officer or any member of a committee who participates in the making of a loan to a nonmember shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

→Section 747. KRS 286.6-991 is amended to read as follows:

- (1) Violation of KRS 286.6-045 constitutes a misdemeanor punishable by a fine of not more than five hundred dollars (\$500), by imprisonment for not more than one (1)

1 year, or both.

2 (2) The commissioner~~[executive director]~~ may petition a court of competent  
3 jurisdiction to enjoin a violation of KRS 286.6-045.

4 ➔Section 748. KRS 286.7-410 is amended to read as follows:

5 As used in KRS 286.7-410 to 286.7-600, unless the context otherwise requires:

6 (1) "Commissioner~~[Executive director]~~" means the commissioner~~[executive director]~~  
7 of financial institutions;

8 (2) "Certificate holder" means an industrial loan corporation organized under the  
9 provisions of KRS 286.7-410 to 286.7-600 to which a certificate, as defined in  
10 subsection (3) of this section, has been issued by the commissioner~~[executive~~  
11 ~~director]~~.

12 (3) "Certificate" means a written instrument issued by the commissioner~~[executive~~  
13 ~~director]~~ authorizing the corporation therein named to do business under the  
14 provisions of KRS 286.7-410 to 286.7-600, except when used in the phrase  
15 "certificate of investment."

16 ➔Section 749. KRS 286.7-420 is amended to read as follows:

17 (1) Any five (5) or more persons may organize an industrial loan corporation in any city  
18 upon the terms and conditions and subject to the liabilities prescribed in KRS  
19 286.7-410 to 286.7-600.

20 (2) No person shall engage in the industrial loan business in this state other than in the  
21 corporate form as provided in KRS 286.7-410 to 286.7-600.

22 (3) The name of the corporation shall not contain the words "bank" or "trust" or the  
23 phrase "loan association," nor shall these words be used in any printed or  
24 advertising matter to refer to the corporation. Such corporation need not use the  
25 word "incorporated" in addition to its corporate name, either in its place of business  
26 or on any printed matter or advertising matter. No certificate of incorporation of an  
27 applicant having the same name as a corporation authorized to do business under



the laws of this state or a name so nearly resembling it as to be calculated to deceive shall be approved by the commissioner~~[executive director]~~, except to a corporation formed by reincorporation, reorganization, merger or consolidation of other corporations, or upon the sale of the property or license of a corporation.

→ Section 750. KRS 286.7-430 is amended to read as follows:

- (1) The capital stock of any such industrial loan corporation shall not be less than one hundred thousand dollars (\$100,000) if located in counties containing a city of the first or second class, or not less than fifty thousand dollars (\$50,000) if located in any other county. The amount of the capital stock shall be paid in full, and in money, before the corporation may transact any business other than that relating to its formation and organization.
- (2) At the time an industrial loan corporation applies for a certificate it shall file with the commissioner~~[executive director]~~ a statement verified by its president and secretary showing its assets and liabilities, and the address at which it proposes to operate its business. A separate certificate shall be required for each place of business.
- (3) Each industrial loan corporation at the time of making application shall pay sixty dollars (\$60) to the commissioner~~[executive director]~~ as a fee for investigating the application, and the additional sum of three hundred dollars (\$300) as an annual fee for the privilege of doing business for the period terminating on the succeeding January 15. If the application is filed after June 30 in any year, the payments shall be one hundred and fifty dollars (\$150) as a fee for the privilege of doing business in addition to the fee for investigation. The annual fee shall be paid for each place of business. In addition to the annual fee for the privilege of doing business, every corporation organized under the provisions of KRS 286.7-410 to 286.7-600 shall pay a fee for examinations by the Department~~[Office]~~ of Financial Institutions, which fee shall be computed by the Department~~[Office]~~ of Financial Institutions on

1 the basis of fair compensation for time and actual expenses.

2 ➔Section 751. KRS 286.7-440 is amended to read as follows:

3 (1) Before delivering the articles of incorporation to the Secretary of State for  
4 recording, a copy of the articles shall be presented to the commissioner~~[executive~~  
5 ~~director]~~ for approval. Upon receipt of such articles, the commissioner~~[executive~~  
6 ~~director]~~ shall first determine whether or not the articles comply with the provisions  
7 of KRS 286.7-410 to 286.7-600 and, if the commissioner~~[he]~~ so finds, he or she  
8 shall promptly notify the industrial loan companies in the locality in which the  
9 proposed office or offices are to be located, specifying a time within which they  
10 may file objections. The commissioner~~[executive director]~~ shall then inquire into  
11 the advisability of approving the application by investigating:

12 (a) The moral character and financial responsibility of the incorporators and  
13 principals of the applicant.

14 (b) The public necessity for such association in the community to be served; and

15 (c) The reasonable probability of its usefulness and success. In so doing the  
16 commissioner~~[he]~~ shall determine whether or not the industrial loan company  
17 can be established without undue injury to properly conducted existing  
18 industrial loan companies, in connection with which the incorporators and  
19 principals shall furnish such information as they may desire and as the  
20 commissioner~~[executive director]~~ may require.

21 (2) After allowing the specified time for the filing of objections, the  
22 commissioner~~[executive director]~~ shall approve the application if he or she finds  
23 that the moral character and financial responsibility of the incorporators and  
24 principals are sound and such as to justify public confidence and to insure the  
25 reasonable probability of the success of the corporation, that the incorporators and  
26 principals have complied with the provisions of KRS 286.7-410 to 286.7-600, that  
27 the incorporation is advisable and, after investigation, there is reason to believe that

1 no undue injury to properly conducted existing industrial loan companies will  
 2 result. Unless the application, after investigation, meets all of the above  
 3 requirements, the commissioner~~[executive director]~~ shall disapprove it.

4 ➔Section 752. KRS 286.7-450 is amended to read as follows:

5 (1) The commissioner~~[executive director]~~ shall upon approval issue a certificate of  
 6 approval in triplicate, one (1) copy of which shall be delivered to the applicant and  
 7 one (1) copy to the Secretary of State which shall constitute the authority of the  
 8 Secretary of State to file and record the articles as provided in the general  
 9 corporation law.

10 (2) Upon the receipt of payment of fees and filing of the articles of incorporation by the  
 11 Secretary of State, the commissioner~~[executive director]~~ shall issue a certificate or  
 12 certificates authorizing the corporation to operate an industrial loan business in this  
 13 state at the places specified, such certificates to be in any form the  
 14 commissioner~~[executive director]~~ prescribes.

15 (3) The commissioner~~[executive director]~~ shall mail one (1) copy of the certificate to  
 16 each office of the corporation and shall retain one (1) copy, which shall be filed in  
 17 the office of the commissioner~~[executive director]~~.

18 (4) If the commissioner~~[executive director]~~ does not approve the application, the  
 19 commissioner~~[he]~~ shall notify the applicant of the denial and return the sum paid by  
 20 the applicant as a fee for the privilege of doing business, retaining the fifty-dollar  
 21 (\$50) investigation fee.

22 (5) The commissioner~~[executive director]~~ shall approve or deny every application  
 23 within sixty (60) days after the filing thereof with the fees paid, unless the time is  
 24 extended by the commissioner~~[executive director]~~ for good cause.

25 (6) All findings of the commissioner~~[executive director]~~, together with a summary of  
 26 the evidence supporting them, shall be filed in the office of the  
 27 commissioner~~[executive director]~~ as public records.

1 (7) The certificate or certificates issued to the corporation shall expire on the  
 2 succeeding January 15, and shall be renewed only on compliance with the  
 3 provisions of KRS 286.7-410 to 286.7-600.

4 (8) Whenever the commissioner~~[executive director]~~ denies any application for  
 5 certificate under the provisions of KRS 286.7-410 to 286.7-600, the  
 6 commissioner~~[he]~~ shall promptly file in his office a written order to that effect,  
 7 stating his or her findings with respect thereto and the reasons for his or her action.  
 8 The commissioner~~[executive director]~~ shall also promptly serve upon the applicant  
 9 for a certificate a copy of the order. The applicant may request an administrative  
 10 hearing to be conducted in accordance with KRS Chapter 13B. Any party aggrieved  
 11 by a final order issued pursuant to a hearing authorized under this subsection may  
 12 appeal to the Circuit Court of Franklin County in accordance with KRS Chapter  
 13 13B.

14 (9) The corporation shall not conduct any industrial loan business until it receives a  
 15 certificate from the commissioner~~[executive director]~~ stating that it has fully  
 16 complied with all the provisions of KRS 286.7-410 to 286.7-600, and that the  
 17 requisite capital is in good faith subscribed and paid in cash.

18 ➔Section 753. KRS 286.7-480 is amended to read as follows:

19 In addition to the charge permitted by KRS 286.7-410 to 286.7-600, no further amount  
 20 shall be directly or indirectly charged, contracted for or received on any such installment  
 21 loan, except lawful fees actually paid to a public official for filing, recording or releasing  
 22 any instrument securing the loan, delinquency and deferral charges as set out in  
 23 subsection (1) of KRS 286.7-500. Provided, however, that the certificate holder may  
 24 request, as collateral for any loan, and collect premiums for:

25 (1) Notwithstanding the provisions of this or any other law:

26 (a) A certificate holder may request a borrower to insure tangible personal  
 27 property, except household goods, offered as security for a loan not exceeding

1           seven thousand five hundred dollars (\$7,500) under KRS 286.7-410 to 286.7-  
2           600 against any substantial risk of loss, damage or destruction for any amount  
3           not to exceed the actual value of such property or the approximate amount of  
4           the loan, whichever is lesser, and for a term and upon conditions which are  
5           reasonable and appropriate considering the nature of the property and the  
6           maturity and other circumstances of the loan; provided, such insurance is sold  
7           by a licensed agent, broker or solicitor.

8           (b) A certificate holder may also request as security for any loan obligation  
9           insurance on the life of the borrower, or one of them if there are two or more.  
10          The initial amount of credit life insurance shall not exceed the total amount  
11          repayable under the contract of indebtedness and, where an indebtedness is  
12          repayable in substantially equal installments, the amount of insurance shall at  
13          no time exceed the scheduled or actual amount of unpaid indebtedness,  
14          whichever is greater. Not more than one policy of life insurance may be  
15          written in connection with any loan transaction under KRS 286.7-410 to  
16          286.7-600.

17          (c) In accepting any insurance provided for by KRS 286.7-410 to 286.7-600 as  
18          security for a loan the certificate holder, its officers, agents or employees may  
19          deduct the premiums or identifiable charge therefor from the proceeds of the  
20          loan, and remit such premiums to the insurance company writing such  
21          insurance and any gain or advantage to the certificate holder or any employee,  
22          officer, director, agent, affiliate or associate from such insurance or its sale,  
23          shall not be considered as additional or further charge in connection with any  
24          loan made under KRS 286.7-410 to 286.7-600. The arranging for and  
25          collecting of an identifiable charge shall not be deemed the sale of insurance.

26          (d) Every insurance policy or certificate written in connection with a loan  
27          transaction pursuant to paragraph (b) of this subsection shall provide for

1 cancellation of coverage and a refund of the premium or identifiable charge  
 2 unearned upon the discharge of the loan obligation for which such insurance is  
 3 security without prejudice to any claim.

4 (e) Whenever insurance is written in connection with a loan transaction pursuant  
 5 to KRS 286.7-410 to 286.7-600, the certificate holder shall deliver or cause to  
 6 be delivered to the borrower a policy, certificate or other memorandum which  
 7 shall show the coverages and the costs thereof, if any, to the borrower within  
 8 thirty days from the date of the loan.

9 (f) All such insurance shall be written by a company authorized to conduct such  
 10 business in this state and the certificate holder shall not require the purchase  
 11 of such insurance from any agent or broker designated by the certificate holder  
 12 nor shall the certificate holder decline existing coverages which equal or  
 13 exceed the standards of KRS 286.7-410 to 286.7-600.

14 (2) Insurance on real property pledged as security for a loan in an amount not to exceed  
 15 the actual value of such property or the approximate amount of the loan whichever  
 16 is lesser.

17 (3) Accident and health insurance on not less than a fourteen-day retroactive basis,  
 18 covering one borrower in aggregate amount not to exceed the approximate amount  
 19 of the loan with each periodic indemnity payment not to exceed the original  
 20 indebtedness divided by the number of periodic installments; all subject to the  
 21 general provisions and limitations of KRS 286.7-410 to 286.7-600. Premium rates  
 22 for accident and health insurance written pursuant to KRS 286.7-410 to 286.7-600  
 23 shall be reasonable in relation to benefits, and shall be filed with the  
 24 commissioner~~executive director~~ of insurance.

25 ➔Section 754. KRS 286.7-520 is amended to read as follows:

26 (1) KRS 286.3-215, 286.4-420, 286.4-620, and 360.010 do not apply to loans made  
 27 under authority of KRS 286.7-460 to 286.7-510, but KRS 286.3-215, 286.4-420,

1 286.4-620, and 360.010 remain in full force and effect for all other purposes and  
2 nothing in this section or in KRS 286.7-480 to 286.7-510 shall be construed to  
3 impair the validity or effect of KRS 286.3-215, 286.4-420, 286.4-620, and 360.010  
4 with respect to loans other than those made pursuant to KRS 286.7-460 to 286.7-  
5 510.

6 (2) Any contract of loan in the making or collection of which any act has been done  
7 which constitutes a willful violation of any provision of KRS 286.7-460 to 286.7-  
8 510 is void, and the corporation has no right to collect or receive any interest or  
9 charges whatsoever on such loan, but the unpaid principal of the loan shall be paid  
10 in full to the lending institution.

11 (3) Those industrial loan corporations operating under KRS 286.7-410 to 286.7-600  
12 that issue certificates of investment shall establish as a reserve against such  
13 certificates of investment an amount which shall not be less than five percent (5%)  
14 of the amount of such certificates of investment outstanding. In addition the  
15 commissioner~~executive director~~ shall have authority to require a blanket surety  
16 bond with an approved corporate surety which shall include fidelity coverage in an  
17 amount deemed adequate by the commissioner~~executive director~~ to protect  
18 holders of certificates of investment.

19 (4) No corporation organized under KRS 286.7-410 to 286.7-600 shall deposit any of  
20 its funds with any bank or trust company unless such bank or trust company has  
21 been designated as such depository by a vote of the majority of the directors of the  
22 executive committee exclusive of any director who is an officer, director or trustee  
23 of the depository so designated. A corporation operating under KRS 286.7-410 to  
24 286.7-600 may invest in the bonds of any federal instrumentality or bonds issued by  
25 the Commonwealth of Kentucky or any governmental subdivision thereof.

26 (5) No corporation organized under KRS 286.7-410 to 286.7-600, nor any foreign  
27 industrial loan corporation nor any other person shall conduct its business in the

1 same office in which there is conducted a petty loan business under Subtitle 4 of  
 2 KRS Chapter 286, or solicit any other business, or associate or be in conjunction  
 3 with any other business except upon a written authorization by the  
 4 commissioner~~[executive director]~~.

5 ➔Section 755. KRS 286.7-530 is amended to read as follows:

6 (1) Every corporation organized under the provisions of KRS 286.7-410 to 286.7-600  
 7 shall report to and be subject to examination, supervision, and control by the  
 8 Department~~[Office]~~ of Financial Institutions.

9 (2) KRS 286.7-410 to 286.7-600 shall be enforced by the commissioner~~[executive~~  
 10 ~~director]~~, who may, after notice to holders of certificates and a hearing, promulgate  
 11 regulations, referenced to the section or sections which set forth the legislative  
 12 standards they interpret or apply, for the proper conduct of the business authorized  
 13 under KRS 286.7-410 to 286.7-600.

14 (3) On or before January 30 of each year, every industrial loan company shall file with  
 15 the commissioner~~[executive director]~~ a report for the preceding calendar year. The  
 16 report shall give information with respect to the financial condition of the industrial  
 17 loan company, and other relevant information as the commissioner~~[executive~~  
 18 ~~director]~~ may reasonably require.

19 ➔Section 756. KRS 286.7-535 is amended to read as follows:

20 In undertaking the examination of any industrial loan company, neither the  
 21 Commonwealth of Kentucky, the commissioner~~[executive—director]~~ of the  
 22 Department~~[Office]~~ of Financial Institutions, nor any examiner employed by the  
 23 Commonwealth shall become liable to any depositor, investor or other obligor of said  
 24 industrial loan company by reason of said examination or omission of such examination  
 25 to fully and effectively disclose the financial condition of said industrial loan company, it  
 26 being the policy of the Commonwealth of Kentucky that such examinations as are  
 27 required by KRS 286.7-530 are for the purpose of determining compliance with state law



1 and not for the purpose of protecting or guaranteeing the depositors, investors or other  
 2 obligors of said industrial loan companies.

3 ➔Section 757. KRS 286.7-540 is amended to read as follows:

4 No corporation organized under the provisions of KRS 286.7-410 to 286.7-600, nor any  
 5 foreign corporation, nor any other person not authorized by other specific statutory  
 6 provisions, shall engage in the business of making loans at a rate of interest in excess of  
 7 the legal rate of interest prescribed in KRS 360.010 unless there is on file in the office of  
 8 the commissioner~~[executive director]~~ a certificate issued by the commissioner~~[executive~~  
 9 ~~director]~~ authorizing the transaction of an industrial loan business under the provision of  
 10 KRS 286.7-410 to 286.7-600.

11 ➔Section 758. KRS 286.7-550 is amended to read as follows:

12 (1) The commissioner~~[executive director]~~, for good cause and after an opportunity for a  
 13 hearing to be conducted in accordance with KRS Chapter 13B, may revoke and  
 14 remove from the department's~~[his]~~ file, or suspend for thirty (30) days, any  
 15 certificate issued under KRS 286.7-410 to 286.7-600 if the commissioner~~[he]~~ finds  
 16 that:

- 17 (a) The holder of the certificate has failed to pay his or her annual fee for the  
 18 privilege of doing business;
- 19 (b) The certificate holder has violated any provision of KRS 286.7-410 to 286.7-  
 20 600 or has failed to comply with any administrative regulation lawfully  
 21 promulgated pursuant thereto;
- 22 (c) Any fact or condition then exists which clearly would have warranted the  
 23 commissioner~~[executive director]~~ in refusing to issue a certificate on an  
 24 original application; or
- 25 (d) The certificate holder has failed to open an office for business within one  
 26 hundred and twenty (120) days from the date the certificate is granted, or has  
 27 failed to remain open for business for a period of one hundred and twenty

1 (120) days, unless in each case good cause be shown.

2 (2) The commissioner~~[executive director]~~ may reinstate suspended certificates or issue  
3 new certificates to a certificate holder whose certificate has been revoked if no fact  
4 or condition then exists which clearly would have warranted him in refusing  
5 originally to issue such certificate under KRS 286.7-410 to 286.7-600.

6 (3) Any certificate holder may surrender any certificate by delivering it to the  
7 commissioner~~[executive director]~~ together with written notice that he or she  
8 thereby surrenders the certificate.

9 (4) Any person whose certificate is revoked or suspended may appeal the final order by  
10 filing in the Franklin Circuit Court a petition for judicial review in accordance with  
11 KRS Chapter 13B.

12 ➔Section 759. KRS 286.7-580 is amended to read as follows:

13 No foreign corporation may conduct an industrial loan business in this state without  
14 applying for and receiving a certificate from the commissioner~~[executive director]~~  
15 authorizing such business in this state. The issuance or denial of such certificate or  
16 certificates shall be governed by reasonable rules and regulations of the  
17 department~~[office]~~ designed to assure that no foreign corporation shall be permitted to  
18 transact an industrial loan business in this state upon more favorable terms and conditions  
19 than would be permitted a domestic corporation.

20 ➔Section 760. KRS 286.7-590 is amended to read as follows:

21 The privilege of the corporation to advertise to the public that it is under the supervision  
22 of the Department~~[Office]~~ of Financial Institutions may be denied by the  
23 commissioner~~[executive director]~~ at any time the commissioner~~[he]~~ has reason to  
24 believe there is a violation of any of the provisions of KRS 286.7-410 to 286.7-600 or any  
25 rule or regulations promulgated thereunder.

26 ➔Section 761. KRS 286.8-010 is amended to read as follows:

27 As used in this subtitle, unless the context otherwise requires:

- 1 (1) "Affiliate" means any person who directly or indirectly through one (1) or more  
2 intermediaries, controls, or is controlled by, or is under common control with  
3 another person;
- 4 (2) "~~Department~~~~[Office]~~" means the Department~~[Office]~~ of Financial Institutions;
- 5 (3) "~~Commissioner~~~~[Executive director]~~" means the commissioner~~[executive director]~~  
6 of the department~~[office]~~;
- 7 (4) "Applicant" means a person filing an application or renewal application for a  
8 license, registration, or claim of exemption under this subtitle;
- 9 (5) "Borrower" means any person that seeks, applies for, or obtains a mortgage loan;
- 10 (6) "Branch" or "branches" means any location other than the mortgage loan company's  
11 or mortgage loan broker's principal location where the mortgage loan company,  
12 mortgage loan broker, or its employees maintain a physical presence for the purpose  
13 of conducting business in the mortgage lending process, including the servicing of  
14 mortgage loans;
- 15 (7) "Classroom" means a physical classroom environment in which teachers and  
16 participants are physically present for the teaching of a course. Courses taught  
17 through Internet, mail, or correspondence classes shall not be considered to be  
18 courses taught in a classroom;
- 19 (8) "Clerical or support duties" means administrative functions such as gathering  
20 information, requesting information, word processing, sending correspondence, or  
21 assembling files, and may include:
  - 22 (a) The receipt, collection, distribution, and analysis of information common for  
23 the processing or underwriting of a residential mortgage loan; or
  - 24 (b) Any communication with a borrower to obtain the information necessary for  
25 the processing or underwriting of a loan, to the extent that such  
26 communication does not include taking a residential mortgage loan  
27 application, offering or negotiating loan rates or terms, or counseling

1 consumers about residential mortgage loan rates or terms;

2 (9) "Control" means the power, directly or indirectly, to direct the management or  
3 policies of a company, whether through ownership of securities, by contract, or  
4 otherwise;

5 (10) "Control records" means all records relating to the operation of a branch that are  
6 necessary to exercise control and supervision over the branch;

7 (11) "Criminal syndicate" means five (5) or more persons collaborating to promote or  
8 engage in any pattern of residential mortgage fraud on a continuing basis;

9 (12) "Depository institution" means a depository institution as defined in the Federal  
10 Deposit Insurance Act, 12 U.S.C. sec. 1813(c), and amendments thereto, and  
11 includes any credit union;

12 (13) "Employ or use" means to employ, utilize, or contract with a person or the person's  
13 employees for the purpose of participating in the mortgage lending process,  
14 including the servicing of mortgage loans;

15 (14) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or  
16 grandchild;

17 (15) "Licensee" means a person to whom a license has been issued;

18 (16) "Managing principal" means a natural person who meets the requirements of KRS  
19 286.8-032(6) and who agrees to actively participate in and be primarily responsible  
20 for the operations of a licensed mortgage loan broker;

21 (17) "Mortgage lending process" means the process through which a person seeks or  
22 obtains a mortgage loan, including the solicitation, application, origination,  
23 negotiation of terms, processing, underwriting, signing, closing, and funding of a  
24 mortgage loan and the services provided incident to a mortgage loan, including the  
25 appraisal of the residential real property. Documents involved in the mortgage  
26 lending process include but are not limited to:

27 (a) Uniform residential loan applications or other loan applications;